

# Beyond the hype? The response to sexual violence in the Democratic Republic of the Congo in 2011 and 2014

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*The Democratic Republic of the Congo (DRC) has witnessed a high prevalence of sexual violence since the wars of the mid-1990s. The huge response to it commenced around the turn of the century, but turned to 'hype' towards 2010. The paper defines 'hypes' as phenomena characterised by a media frenzy, eagerness by non-governmental organisations, and pragmatic local responses. Interviews and analyses conducted in 2011 revealed misuse of services and misrepresentation at different levels. The paper goes on to review medical and legal assistance and to provide evidence of incremental improvements in the response since 2012. It has become better coordinated, with more engagement by the DRC government, more community-oriented, and has incorporated a broader notion of gender-based violence. Nonetheless, concern remains about its impact and its continued dependence on international resources. There is apprehension too about social reactions to the problems of corruption and impunity, seemingly adding to the confusion surrounding gender relations in the country.*

**Keywords:** development hype, Democratic Republic of the Congo (DRC), fight against impunity, gender, sexual violence

## Introduction

The Democratic Republic of the Congo (DRC) is known internationally for its vast mineral resources, its wars, and the conflict-related sexual violence that has affected the lives of a large number of citizens. An international response to the latter around the turn of the century, when some Congolese women's groups that were supporting victims increasingly found their way on to radio programmes and into international fora to provide witness accounts. These efforts gained momentum, and by the end of the first decade of the twenty-first century, the DRC had become almost synonymous with conflict-related rape, with Margot Wallström, the United Nations (UN) Special Representative of the Secretary-General on Sexual Violence in conflict, dubbing the country the 'rape capital of the world' in 2010 (BBC News, 2010). During these years the DRC became the site of a high number of interventions to halt sexual violence, to stop impunity, and to assist victims. The volume of programmes to address sexual violence in the DRC is impressive, with significant achievements made in diminishing taboos, helping victims to heal and recover, and criminalising

and prosecuting perpetrators. However, concerns have been raised about their negative side-effects, such as the lack of recognition of women's agency, the neglect of other issues pertaining to conflict, development, and violence, and the misuse of funds.

While the authors were in the DRC in August 2010, news broke of a mass rape in the town of Luvungi, South Kivu Province. The story of hundreds of women allegedly being assaulted by invading rebels made headlines worldwide, yet, shockingly, a large number of critical, or even cynical, remarks were made about the matter in the South Kivu capital of Bukavu. Some representatives of local non-governmental organisations (NGOs) speculated that the estimated number of affected women was exaggerated. A local NGO director in Bukavu told us in August 2010 that 'women from neighbouring villages are coming to Luvungi to solicit assistance, and are counted as victims'. An investigation by a journalist subsequently confirmed some of these initial notes of caution, and asserted that the actual number of cases of rape during the incident was probably much lower than reported (Heaton, 2013).

The apparent contradiction between the global outrage and the reactions of these NGO representatives was puzzling, as were other pointers hinting at unease among local actors about the international response to sexual violence. In a series of interviews with key stakeholders to identify relevant topics for a new research consortium (convened by the first author), numerous participants made similar observations to the one who exclaimed that 'all research is needed, except for more research on sexual violence, because that is the only topic of interest for international research these days'. The second author was alarmed by a number of stories emerging among her Congolese friends about men they knew who, after spending some time in a bar drinking with a woman, were threatened with rape charges unless they paid off the police and their alleged victim.

These signals prompted us to conduct research on the unintended effects of the response to sexual violence in eastern DRC in 2011. Interviews uncovered many problems with the reporting of and reactions to sexual violence, including bloated numbers of cases, a lack of coordination, and competitive, almost predatory, practices to solicit victims for response programmes. It had become common to refer to sexual violence as a '*fond de commerce*' (source of business), which became the title of our report (Douma and Hilhorst 2012). Other publications released around the same time deepened the analysis of these problematic outcomes. As the response to sexual violence was massive, attention to it overshadowed every other concern about peace and development in the DRC for several years, such as the continued governance crisis, other types of violence, and the dire poverty affecting the vast majority of the population. Agency representatives complained that they would not receive funding if they failed to reference combatting sexual violence among their objectives. Auteserre (2012, p. 13) reported that, '[a]ccording to an insider, since 2009, there has been no interest in the DRC at the United Nations (UN) Security Council except when it discussed incidents of mass rapes and potential responses to them'.

The discursive dominance of the theme warrants the *hype* label. Hypes (derived from the Greek word 'hyper', meaning above) are phenomena that attract temporarily an extreme level of media and public attention. They can be instigated deliberately

through commercials. In the development domain, they manifest more often spontaneously via reinforcing loops. The tendencies among media and news producers, the public at large, and political actors and aid agencies act and react in loops that garner increasingly high levels of attention. These hypes can be viewed as a specific and temporary form of developmental discourse (Ferguson, 1990; Apthorpe and Gasper, 1996) that frames issues in a particular way and guides interventions accordingly. Hypes produce a reductionist, singularly focused storyline for outlining a problem and promising a certain solution.

Systematic reviews of the use of hypes in development or humanitarian crises are wanting, yet there are many examples in the literature. The Indian Ocean tsunami of 2004 is a well-known case of where governments and agencies brought about and then could not escape from the pressure to devote ever greater resources to the response (Fernando and Hilhorst, 2006; Stirrat, 2006; Hyndman, 2011). On a smaller scale, Polman (2010) found that people whose limbs were amputated by rebels and soldiers during the civil war in Sierra Leone (1991–2001) commanded a huge amount of media attention and then became donor darlings to the extent that agencies fought over beneficiaries to be included in their programmes.

There are several commonalities in these hypes. An obvious one is the major role of the media. The ‘CNN effect’ originally described the influence of real-time coverage on the evolution of a political conflict, yet it is also known to play a role in humanitarian response; media are one of the decisive variables in some disasters receiving much more attention than others (Rye et al., 2003). Media frenzy also plays a part in instances of famine and famine response, sometimes creating a response loop that Howe (2010, p. 47) terms ‘too-much-too-late’.

Another commonality is that such hypes lead to similar negative side-effects across responses. In all of the examples above, there was very poor coordination of aid on the ground and heightened competition among agencies. Aid organisations usually compete for scarce resources, but during hypes, when resources become relatively abundant, competition seems to shift to contention regarding recipients. One could argue that because NGOs almost always work with short-term funding and therefore are largely driven by the need to secure finance, the development sector is prone to the generation of hypes. NGOs are likely to feed, rather than cool, a media frenzy, as this results in new money. To boost their legitimacy and funding base, international NGOs tend to link themselves to causes that play well in the eyes of the public (Bob, 2010). This is not to say, though, that their interest is purely instrumental, undoubtedly there is a genuine desire to assist those in need.

Such competition in turn invites all kinds of adverse responses among institutional actors and the population in situ, including the instant formation of new local NGOs—often with limited thematic expertise—that aim to implement programmes on behalf of international NGOs, illegitimate bids for support by non-affected populations, and ‘shopping’ for multiple forms of assistance. Following the tsunami in 2004, many people in Sri Lanka who had never gone to sea falsely claimed to have lost a boat, leading to a multiplication of fisher boats and overfishing problems, and amputees in Sierra Leone were seen to cast off their prostheses to reapply for assistance

(Polman, 2010). These common and reinforcing components of media frenzy, NGO eagerness, and opportunistic local responses make up the cocktail that breeds a hype.

But what really is the effect of hype? One could contend that extreme attention is far better than too little or no attention to a problem. And what are the effects in the long term? Does hype pass without making a lasting impact? The few publications addressing the issue of 'after the hype' in the technological realm suggest that it continues to 'influence what people think and do' (Meijer, Boersma, and Wagenaar, 2009, p. 3; see also Ruef and Markard, 2010).

As for the huge response to sexual violence in the DRC, we wondered what would happen to the hype that apparently occurred between 2009 and 2012? It was unlikely to be sustained for a long time, so would it simply dissipate? Would the side-effects become increasingly dominant, or would the hype simmer out and lead to a more balanced and sustained response? Although some of the questions are difficult to answer, follow-up research was instigated in 2014 to assess trends in the response to sexual violence.

## **The response to sexual violence in the DRC**

The issue of sexual violence in the DRC emerged in relation to the series of wars that started in 1996. It remains associated with conflict and insecurity. North and South Kivu Provinces, in particular, have seen several outbreaks of (renewed) instability, involving the perpetration of sexual violence against civilians by a number of armed groups. Many insurgencies have withdrawn to remote areas since 2005, and the intensity of the fighting appears to have diminished gradually since 2010. Perpetuated governance problems, however, make the country prone to new upsurges of violent conflict.

Attention has shifted to sexual violence perpetrated by civilians in recent years. The largest survey on sexual violence conducted in the DRC concluded that domestic and other forms of civilian rape far outnumber rape during war (Peterman, Palermo, and Bredenkamp, 2011). This particular finding corresponds with other data and the observations of key informants in interviews for this study. The high level of civilian abuse may be related to post-conflict conditions, as seen in some other post-conflict settings. Bouta et al. (2005, p. 38) state that it results from an eroded sense of manhood on the one hand, and militarised, masculine control-seeking behaviour on the other. In addition, it may be related to complex processes concerning fluctuating economic opportunities for men and women and changes in gender status and ideologies (Smits and Cruz, 2011). Increased awareness may also have led to more reporting of violence.

The DRC established its first gender secretariat under President Mobutu Sese Seko in the early 1980s, and ratified the UN Convention on the Elimination of All Forms of Discrimination Against Women in 1985. It has also adopted several African and UN resolutions on women's rights, including the influential UN Security Council Resolution 1325.

The fight against the impunity of sexual violence crimes started in 2006, when the country, with the assistance of the international community, adopted a law on sexual violence, even before the ratification of its new constitution.<sup>1</sup> The law makes reference to 16 types of sexual violence. For rape, it prescribes between 5 and 20 years imprisonment. Sexual intercourse with minors below the age of 18 years is included in the definition of sexual violence, which has played a significant part in socio-legal responses to it.

A national strategy to combat sexual and gender-based violence was adopted in 2009. 'Gender-based violence' also refers here to the abuse of women's rights, such as to inheritance. Women fulfil an important role as food providers in the family, but occupy a low position in the economic, political, and social spheres of the country (Sida, 2009; Ministry of Gender, Family, and Children, 2011).

Despite the equality of men and women before the law, many domains of life, including marriage, are still dominated by customary practice, which consistently subordinates women with respect to men (Freedman, 2015).

### Fighting impunity

The battle against conflict-related sexual violence internationally started in earnest after the Fourth World Conference on Women in Beijing, China, on 4–15 September 1995, at which many women from the Balkans testified about rape being employed as a deliberate strategy of ethnic cleansing in that region. Since 2000, the UN Security Council has adopted eight resolutions on women, peace, and security, and five of these, including most notably 1325, address sexual violence in conflict specifically (Lake, 2014).

The UN, in the DRC and elsewhere, made the fight against impunity its main and preferred route towards combating sexual violence. An emerging body of scholarship points to the negative side-effects of this singular focus, which (it argues) leads to blind spots, and a narrow approach to justice and peace (Porter, 2017). International resolutions to tackle impunity have been followed up at the international level, most significantly with the first conviction for sexual violence by the International Criminal Court—of former Congolese rebel leader and opposition party leader Jean-Pierre Bemba in 2016. Ongoing proceedings against the former commander of the Forces Patriotiques pour la Libération du Congo (FPLC), Bosco Ntaganda, and LRA commander Dominic Ongwen also entail accounts of sexual violence. Moreover, the resolutions have given rise to a range of internationally-sponsored interventions in the DRC.

Rape in the DRC has been dealt with customarily via 'amicable' or informal arrangements. These have not been geared towards justice for the victim, and often have involved the forced marriage of the victim and the perpetrator or material compensation usually to the husband of the victim. A formal legal practice concerning sexual violence has developed over the past 10 years and a substantial number of people with different socioeconomic backgrounds have taken steps to seek justice;

many convictions have followed as a result. Compensation included in judgements, however, is hardly ever paid.

This fast-track judicial development in a country known for its weak governance and minimal expenditure on the legal sector—just 0.03 per cent of the annual budget in 2009—is remarkable. Lake (2014) attributes this rapid shift to the support of the international community. According to her analysis, external actors found room for manoeuvre within the weak state conditions to shape proactively the legal domain in support of local forces seeking to fight impunity.

Legal support has comprised training of personnel, rehabilitation of the infrastructure, counselling for victims, and financial support for an assortment of local NGOs that accompany women during their process (Douma and Hilhorst, 2012).

In addition to the regular courts, mobile courts have been in operation. Sexual violence crimes are the sole jurisdiction of higher courts in the DRC, located in urban areas, and there are no venues in which to seek justice in rural areas. Mobile courts aim to fill this gap. Civilian courts have been set up, but given the attention to conflict-related rape, most of the mobile courts have consisted of military tribunals.

Legal responses in the DRC have been part of a much larger response to sexual violence, including awareness-raising, medical assistance, and the provision of livelihoods support for victims. When financial aid was at its peak in 2011, hundreds of local agencies were working on sexual violence. Among the medical facilities in the Kivus, the Panzi Hospital and the Heal Africa Hospital have gained worldwide recognition for their complicated surgery of women suffering from fistula.

The hundreds of programmes concentrating on sexual violence have had positive impacts. Lake (2014) found that women who choose to take legal action had a motivation to stand up for their rights, in addition to seeking more material outcomes. Douma, Hilhorst, and Matabaro (2016) note that the stigma of sexual violence has lessened and attitudes towards women who have been raped and children born of rape have changed in certain communities, reducing the likelihood of social rejection.

The programmes have spawned infrastructure for sexual violence prevention and response, ranging from educational materials and trained personnel to coordination structures and specialised media. In 2013, there were an estimated 13 UN organisations, 100 international organisations, and at least 300 local organisations in North Kivu Province, mainly in Goma (Graham, 2014, p. 44). In Bukavu, South Kivu Province, there were similar numbers of agencies, and it is estimated that approximately 70 per cent of them had primary or secondary objectives to combat sexual violence (Douma, Hilhorst, and Matabaro, 2016).

### **Problematic aspects of the attention to sexual violence**

The sexual violence response has been criticised in a number of different respects, some of which are elaborated upon below. First, local development bodies felt under constant pressure by donors to focus on sexual violence (Lake, 2014; Mertens and Pardy, 2016), and many of the new organisations working in the field had no track

record. Aid was not evenly distributed across the country, but concentrated in easily accessible parts of the DRC, where there had been high incidences of sexual violence crimes in the war period (1996–2002). This led to a duplication of efforts and great competition for ‘beneficiaries’ in these areas. The study team discovered in 2011 that many medical or socioeconomic services were reserved exclusively for victims of sexual violence, resulting in widespread false reporting as all beneficiaries were counted as victims. On a positive note, one could say that this spurious use of services attracted large resources to the DRC’s economy of survival, but that was not the intention of the programmes.

Second, sexual violence overshadowed killing, maiming, torture, and all other conflict-related traumas (Autesserre, 2012), and the crime was treated as the worst thing that could happen to a woman. Medical services often were restricted to sexual violence, disregarding other health needs among the population (D’Errico, Kalala, and Nzigire, 2013). Attention to sexual violence even obstructed the reorganisation of the armed forces and other institutions responsible for securing the rule of law and potentially preventing such action (Baaz and Stern, 2013).

Third, the focus on sexual violence led to a multitude of simplifications that made it questionable whether the response would yield an actual reduction in violence or any kind of empowerment of women. The discourse of rape as a weapon of war has been thoroughly criticised (Cohen, Green, and Wood, 2013; Baaz and Stern, 2013), yet it continues to be utilised (Kirby, 2015), more in international arenas than among practitioners in eastern DRC. The response could even be seen to instrumentalise in different ways sexual violence for the benefit of the intervening parties. Graham (2014) underlines that the spotlight on victimised bodies deprived women of their agency and social identity, while they were turned into the preferred NGO target group of vulnerable women and children. Similarly, Mertens and Pardy (2016, p. 4) maintain that the emphasis on sexual violence could be seen to serve the international community, providing a discourse that ‘enables state leaders and multilateral organisations, namely the UN, to become the global arbiters and spokespersons on sexual violence in conflict, and the prevailing authors of its causes and proper solutions’.

Fourth, the response generated numerous complicated social tensions. Interventions in a country such as the DRC, with a troubled institutional history, easily lead to mistrust among the population. The large number of international agencies flaunting their cars and money seems to have undermined rather than strengthened the legitimacy of the development sector. ‘Ce sont eux qui bouffent’—they are the ones eating—is a saying frequently heard. Mistrust was also found at the community level, where contradictions between the law and traditional practice were considered to be unfair (Dolan, 2010). Other social tensions are impacted by illegible aid recipients, or people who abuse the legal system (a point discussed below in the final section).

This summary of the literature concurs with our notion of hype, where a media frenzy, NGO eagerness, and opportunistic local responses together generated a hyper response to sexual violence. The literature navigates between appreciation of attention paid to the issue and recognition of achievements and concerns about the many

side-effects of the hype. Much of the fieldwork of the cited literature was conducted between 2009 and 2012, at the height of the hype; analyses rarely take into account that the hype diminished after 2012. This study, based on data collected in 2011 and 2014, aims to highlight trends that can reveal what happened to the response to sexual violence as the hype waned.

## Methodology

The notion of hype pertains to the response to sexual violence as a whole, not to individual programmes. Analysing the response on a general level is highly relevant; actors react to programmes, especially in arenas where many similar interventions are concentrated, according to their observations and experiences of the *ensemble* of interventions in their locality (Hilhorst, 2003; Hilhorst and Jansen, 2010, 2012). In high-level aid environments, therefore, interventions get embedded in and affect the political and social dynamics in situ.

To understand better these realities, a mixed methods methodology with qualitative interviews at its core is employed here. Semi-structured interviews (58 in 2011 and 49 in 2014) were held with representatives of organisations responding to sexual violence (Congolese and international NGOs and the UN), as well as with members of relevant administrative, legal, and political institutions (court clerks and presidents, judges, and public prosecutors). The 2014 panel research aimed to put the same questions to the same set of people as in 2011. Owing to the high turnover of staff in the international aid sphere, often this was not possible, however. Nine participants were interviewed in both phases of the research, and an additional 13 were previous participants. Additional and new actors also were interviewed, including donor representatives.

Specific questions were asked during the interviews about the programme of the participant, as well as general questions about their opinions on the various interventions. Interviews were conducted by the authors in English or French. Most participants were not comfortable with recording, but they had no problem with notes being taken directly on a laptop or tablet device. These were then coded using the NVivo software package.<sup>2</sup>

Ten focus group discussions (FGDs) were convened in 2014 to gauge the positive and negative effects of the response to sexual violence in the DRC. Four were held in areas with many NGO programmes and were meant to distil what people had absorbed from training previously conducted there to combat sexual violence and what they saw as the outcomes of, and the problems with, such interventions. FGDs in the village of Walungu involved two groups of six women and five men, whereas FGDs in the village of Bweremana involved two groups of eight women and five men. Four FGDs in urban contexts were largely removed from NGO activity. Two in Goma were with urban poor men (5) and women (4) who talked about sexual violence in their neighbourhoods. One in Bukavu was with a mixed group of five

women and two men who spoke of their experiences and perceptions of the current legal responses to sexual violence, based on personal stories and/or radio programmes. One in Bukavu was with four sex workers, and dealt with sexual violence in their working environment. Finally, two FGDs were held with members of the provincial parliaments of North and South Kivu Provinces to understand how the political leadership comprehends and analyses the sexual violence response and its effects.

With the exception of the latter, local NGOs selected the individuals who participated in this element of the research and provided translators. Notes were taken during translation, ensuring near verbatim recollections. A strength of FGDs is that people can comment on each other's experiences and opinions, yet, conversely, there is a risk that participants will just repeat what was stated earlier or what a more powerful respondent said in response to a particular question. There may, then, have been more diversity of opinion than was reflected in the focus groups. To address this limitation, speakers were encouraged to provide concrete examples. When different cases were used, this was considered to be evidence of a broadly shared experience.

An evaluation of legal sexual violence cases was also performed. In 2011 and 2014 respectively, 40 and 46 cases at the first degree and appeal level in five civil and military jurisdictions of South Kivu were scrutinised. An initial selection encompassed all of the files that were physically present in the five offices and appeared to be complete. Every case concluded in the two years prior to the research was assessed subsequently. The files were appraised by a lawyer who created profiles of the suspects and victims and examined the procedural quality of the cases, including questions about the proceedings, evidence presented or lacking in the files, legal arguments underpinning the conclusions of the courts, and the penalties applied. The 2014 analysis included, too, follow-up of 18 cases from the 2011 sample that had resulted in conviction. The findings were studied in conjunction with qualitative data from the interviews.

## Findings

This section compares the findings from 2011 and 2014 on the response to sexual violence, notably trends in the politics of numbers, the scope of the response, and the level of medical care. In addition, it contains a discussion of the need for more independent legal assistance and the social responses triggered by the fight against impunity.

### The politics of numbers

The politics of numbers is part of the media frenzy and hyper response. Keck and Sikkink (1998) refer to this as information politics, where international advocates reinterpret and dramatise facts to spawn public outrage. During the sexual violence response hype in Liberia, it was repeated time and again that 80 per cent of women were abused, a claim that turned out to be unfounded and exaggerated (Cohen and Green, 2012). Similarly, in 2011, estimates of the number of affected women in the

DRC were very high. There were many reasons for the inflated statistics, including deliberate exaggeration for fundraising purposes, double counting of victims receiving assistance from multiple sources, medical treatment of non-victims in need of care, women falsely posing as victims, and multiple registrations by programme beneficiaries. Data often were not specific about the type of sexual violence, the location of information collection, and the time frame for reported offenses. The unwarranted extrapolation of data and one-line media representations reinforced the representation of the DRC as the 'rape capital of the world' (Douma and Hilhorst, 2012).

Some of the numbers that were circulating in 2012 were corrected, including those connected with the mass rape in Luvungi in 2010. While headlines referred to 387 victims initially, an investigation in 2013 revealed that the original number was unfounded, and even was inconsistent with a UN inquiry immediately after the attack (Heaton, 2013). The factors behind the inflated figures illustrate the concoction of media, aid agency, and local actions engaged in generating hype. Aid agencies released distorted figures to the media to raise funds, and local staff reported on rape because that was the only way to disseminate funds for medical assistance. One woman told Heaton (2013) that village elders asked her to report being raped to 'avoid ostracising those who were'. Once aid poured in, she said, it became important to protect the story so that everyone could benefit from assistance.

Although some figures were corrected, interest in them had completely waned by 2014. There were no ongoing explorations, apart from the routine collection of data on reported cases. Steps were taken, though, to avoid the double coding of victims in these statistics. Yet, even this routine gathering of data was problematic, and under pressure owing to a lack of funding. The international reputation of the DRC as the rape capital of the world remained intact, however: for instance, the country figured prominently as an example of rape as a weapon of war during the Global Summit to End Sexual Violence in Conflict held in London, United Kingdom, on 10–13 June 2014 (Kirby, 2015).

### The scope of the response

The response to sexual violence began around the turn of the twenty-first century and was spearheaded by local activists. Soon it became international and swelled in the coming years, culminating in the 'Marche Mondiale' in October 2010, when some 20,000 national and international people rallied for peace and demilitarisation in Bukavu, during a five-day period of action. Hundreds of organisations were working on sexual violence in 2011, both at the international and community level. The number had not diminished by 2014, although the volume of activities had decreased considerably. The women's division of the Bureau de Coordination de la Société Civile du Sud Kivu, the civil society network of South Kivu, still had 93 member organisations, but its coordinator estimated that 75 per cent of them had no funding and had shrunk to 'two or three women' (Hilhorst and Bashwira, 2016).

Respondents commented that the 'hype' was over and that the sexual violence response was declining. The reduction of activities was highly visible in local areas

where large numbers of rusted billboards reminded people of previous action, while few projects remained in existence. Yet, the response had become more concentrated with the coordination of the UN and the Government of the DRC, meaning that some of the scattered actions initiated by NGOs established to jump on the bandwagon had become more focused and were now under the auspices of large traditional institutions. Meanwhile, some local activists from the early years had veered away from sexual violence, concentrating instead on other issues such as access to land or adult education.

The international community completely dominated the response in 2011, but a change in the involvement of the Congolese government had occurred by 2014. Its financial contribution remained negligible, but it had risen in the three years between data collection from 0.10 to 0.22 per cent of the state budget of the Ministry of Gender, Family, and Children (Ministry of Budget, 2011, 2014). However, in terms of coordination and implementation of responses, the government had become more visible.

### **Level of medical care: from victim-oriented to comprehensive approaches**

The response was overwhelmingly victim-oriented in 2011, with a singular focus on sexual violence and a strong emphasis on direct service delivery to victims. As a result, many services were available exclusively to women affected by sexual violence, creating perverse effects at different levels. The availability of medical care for sexual violence was in stark contrast to general healthcare. One participant remembered her time in Fizi where the clinic had been abandoned for 15 months so there was no healthcare (see also D'Errico, Kalala, and Nzigire, 2013):

*That same week, a mobile clinic came with a doctor and a nurse. They registered 177 women patients. They did not even look at men [ . . . ] the military had to come in, because people were angry when they left. They came to look for victims of sexual violence, but people came with all kinds of different problems.<sup>3</sup>*

Owing to the restricted nature of services, women in need of medical and socio-economic assistance had no choice but to enrol in sexual violence programmes, producing a large pool of fake victims. International agencies maintained in those years that programmes were 'abuse-proof' because the stigma attached to rape would inhibit the presentation of false cases. None of the Congolese respondents supported this view, underscoring that women in dire need of medical and socioeconomic assistance would pretend to be victims of sexual violence. The apparent contradiction between the prevalence of a strong stigma about sexual violence and over-reporting is understandable in a context where false reporting was widespread. Reporting thus became largely detached from the realities of sexual violence.

Service providers were complicit in creating an image that they were assisting only rape victims. Doctors from the two most renowned hospitals for the treatment of fistulas of rape victims said in interviews that only between one and three per cent

of cases were the result of rape; others were due to complications during childbirth. A situation had evolved, therefore, where sexual violence programmes knowingly compensated for the lack of reproductive healthcare facilities. While the choice to treat women irrespective of the cause of their medical condition is ethically correct, that this was reported solely under sexual violence responses is not.

Most international and domestic agencies had changed their approach to sexual violence substantially by 2014. Responses had become embedded in broader gender or health programming. A donor representative pointed out that '[m]ore people are seeing the need to connect action against sexual violence to a much broader gender agenda'.<sup>4</sup> The concept of gender-based violence had come to include a range of issues, such as inheritance rights, and there was a shift towards the cultivation of female leadership. Medical responses had largely become integrated into maternal health or reproductive healthcare in regular hospitals. The facilities treating fistulas were now transparent about the fact that the vast majority of their patients had contracted the condition during childbirth. One of the hospitals, though, continued to focus only on rape on its website, but this was altered in the months after the publication of our report.

The embedding of sexual violence response in the capacity development of general hospitals was supported by major donors, but there was also a parallel trend by other large donors: the development of one-stop centres where sexual violence victims could receive integrated (legal, medical, and socioeconomic) treatment. Socioeconomic programming (what was left of it in 2014) had become more community-based, meaning that it centred on the organisation of all women, rather than on supplying assistance to victims, reducing the stigma and the likelihood of 'fake victims'.

The more comprehensive approach addressed a number of past criticisms, but there were also some concerns about it. One major worry was that the broad notion of sexual violence made it more difficult to evaluate specific effects. One research participant stated, for example, that 'all basic healthcare is a response to sexual violence, because healthy women can better protect themselves against assault'.<sup>5</sup> Relatedly, there were concerns that the broad conceptualisation of gender-based violence, centring primarily on civilian forms of violence, threatened the capacity to respond to the conflict-related sexual violence that continued in parts of eastern DRC, as well as to that that might manifest again in the event of the reigniting of conflict<sup>6</sup> (see also *Médicins sans Frontières*, 2014).

### The need for more independent legal assistance

The fight against impunity in relation to sexual violence has resulted in many programmes to develop the capacity of the legal system and to accompany victims. The latter starts with the provision of advice to women who come to use a service, helping them to decide whether they want to go to court, the supply of a lawyer, and social accompaniment during a trial. In 2013, 15 per cent of the 10,706 sexual violence cases reported in South Kivu involved legal assistance, in comparison to 29

per cent of 6,898 cases in North Kivu (UNFPA, 2014a, 2014b). In most of these instances, assistance was restricted to legal advice. The four civil prosecution institutions in North Kivu analysed registered 1,293 cases of sexual violence between 2006 (when the law on sexual violence was adopted) and 2013, with the number gradually increasing over time.<sup>7</sup>

That a jurisprudence on sexual violence has emerged is remarkable in a country where the court system is flawed, awash with delays, and costly, and where it is highly uncertain whether a complainant will be lucky enough to find an honest judge (Rubbers and Gallez, 2012). Sexual violence cases have been tried in three venues to date. Cases in which members of the military are implicated are dealt with by military tribunals. Civilian cases are within the remit of the high tribunals, meaning that they can be tried only in provincial capitals. To resolve the resulting gap in coverage, mobile courts (recognised under Congolese law) have been organised, residing for several weeks in an area to deal with local cases (Maya, 2011).

Problems were found in 2011 with the quality and independence of the military and high tribunals and the mobile courts. Donors made it conditional that the mobile courts they funded only focus on sexual violence. Some supporting international NGOs intervened in legal procedure by incorporating a minimum number of cases to be tried per year in their log frames, and by preselecting cases to be tried. Combined with incentives pertaining to per diems and fees, this resulted in a strong pressure to convict. NGOs made effectively no distinction between suspects and (confirmed) perpetrators. They made funds available only for the legal representation of the victim, not of the suspect, leading to severe breaches of rights.

With regard to court cases, suspects overwhelmingly were poor youths in the civil courts and low-ranked soldiers in the military tribunals, confirming widely-held perceptions of bias in the DRC's legal system. The 19 convictions in 40 cases reviewed in 2011 all lacked crucial evidence and were based on faulty procedures, and none of the files contained medical examination proof. Acquittal files revealed more legal underpinnings, supporting the finding that courts would convict unless the individual was proven innocent, instead of the other way around.

Marked improvements in the independence of the legal system and recognition of the rights of suspects were evident in 2014. International organisations were keeping more distance to safeguard the independence of the courts. Daily allowance standards had been harmonised, and fees reduced.<sup>8</sup> Importantly, a task force had started to provide support to the bar association that offers pro bono assistance to suspects.<sup>9</sup> The Judge-President of the Bukavu Tribunal warned that: '[w]e should not interpret impunity in a single manner, or else we will convict the innocent'.<sup>10</sup> Although funding for mobile courts largely continued to be earmarked for sexual violence, there were also courts for resolving land disputes.<sup>11</sup>

With regard to court cases, files were in better shape than three years before, with, for example, 59 per cent of them having a medical report as compared to 22 per cent in 2011. Motivations for conviction were significantly better, although mostly at the appeal court level.

As for old cases, there was no proof that compensation had been paid in a single instance as part of the sanction imposed, ranging from USD 90–15,000. Hence, victims were denied a form of reparation. The prison terms of five convicts in the 2011 sample had ended in 2014, but four of them were still incarcerated, serving on average two years more than their initial punishment. Research participants noted this in reference to corruption, as apparently one has to buy a ticket to leave jail even when the sentence is completed. Follow-up of cases after conviction is, therefore, a matter of concern, both with respect to reparation of victims and the rights of perpetrators.

Sexual intercourse with a girl under 18 is considered rape according to the law on sexual violence. In both datasets, 75 per cent of the victims were minors. Of these, 50 per cent were between 14 and 18 years of age in 2011; this proportion had risen to 80 per cent in 2014. Figures of the Division of Justice in North Kivu showed that 60 per cent of the 300 men imprisoned in Goma for sexual violence were aged between 18 and 25.<sup>12</sup> In 2011, two-thirds of the perpetrators were unknown to the victim, whereas the proportion was slightly less than one-quarter in 2014.

Furthermore, there was a sharp increase in the number of cases that involved family, friends, acquaintances, or work-related persons. The prosecutor in North Kivu estimated that 90 per cent of all cases reported to the police involve ‘*copinage*’ (cronyism), especially in urban settings.<sup>13</sup> *Copinage* refers to consensual liaisons between a girl and her boyfriend (called locally a *copinage*), or a girl and an older lover (called locally a sugar daddy). Consequently, the fight against impunity in the DRC had drifted far from its original intention of tackling conflict-affected sexual violence.

### The fight against impunity

Much anecdotal evidence was unearthed in 2011 of people who would frame disputes or depict falsely failed consensual relations resulting in pregnancy as rape, to take revenge or to gain material benefit. Many research participants from Bukavu and Goma gave testimonies or told stories to show how consensual relations or conflicts were framed as rape. One woman said: ‘[i]n our neighbourhood, nearly all pregnancies of unmarried girls are sooner or later transformed into a sexual violence case. In my opinion, rape is abused to get money’ (Douma and Hilhorst, 2012). An NGO representative summarised the situation as follows: ‘[t]he severity of the law is abused; intimidations and requests for money are widely present. People know that someone will “tremble” when he is accused of sexual violence and is immediately ready to give some money’.<sup>14</sup>

More traces were found in 2014 of social appropriation of legal action on sexual violence. By this time, *copinage* had become a controversial issue in the eyes of many research participants. To their minds, the high number of cases emerged in different ways. As in 2011, stories continued to materialise of young women (with the encouragement of their parents) accusing men of rape. It was underlined in one FGD that ‘sometimes cases are filed as revenge, when the relationship ends on a bad note’.<sup>15</sup>

Usually, this would happen after pregnancy, in the hope that this would result in compensation or an out-of-court settlement. During a focus group of urban women one person stated that she was asked by her mother: '[w]hy don't you cope like everybody else and find a man to accuse of rape?' (Mwapu et al., 2016).

Another reason why individuals threaten such a lawsuit concerns the corruptive practices of police or legal officers. Rumours heard in 2011 about police involvement in framing rape cases for the purpose of extortion had expanded in number and strength by 2014.

In addition, there were many cases where parents who did not approve of the boyfriend of their underage daughter had reported him to the police. The prosecutor in North Kivu referred to cases where the girl was crying in front of the judge, saying '[d]on't take away my boyfriend'. A participating judge registered concern about the differential ways in which these cases are handled. A number of judges took the view that the law defines (any attempt to have) sex with a minor as a crime, and the accused should be prosecuted accordingly. Other judges called for greater discretion in dealing with this type of case. One of them said in relation to a case involving a 17-year-old girl whose parents accused her boyfriend of rape: 'unfortunately the law does not allow her to love at that age'.<sup>16</sup>

According to the research participants, these social practices have different consequences. A focus group with young men revealed that they had affected courtship in the city. A schoolboy said that he did not dare court a girl 'because some families try to enrich themselves, especially when it turns sour'. Some joked that they were afraid to go out, because they feared apprehension by the then head of the vice police who had a reputation for making false arrests. Girls who worked in a nightclub owned by this policewoman also pointed to dubious arrests and extortions by this person.<sup>17</sup>

It is difficult to establish the contribution made by the fight against impunity to rapidly changing social realities and sexual relations in the conflict-affected cities of eastern DRC. Most women live in dire poverty and have to endure all kinds of hardship and violence on a daily basis. The focus groups with women were replete with stories of abandonment, domestic violence, loss of land, and worries about the future of their children. A young woman in the FGD in Goma estimated that 50 per cent of adolescent girls in her neighbourhood engaged in some form of transactional sex to survive, raising questions about the meaning of 'consensual' relations. Yet, the pace of urban life and the development of an economic space for women must also allow women to become more autonomous in the making of decisions that affect their bodies and relationships. Moreover, the intensive international attention paid to gender-based violence seems to exacerbate the confusion caused by these shifts (Braun, 2016).

The discussion raises three key issues. The first is that the fight against impunity has led to an emphasis on the criminalisation of sexual relations with minors. Schools and other institutes are thus deterred from educating young people about

contraception and reproductive rights (Mwapu et al., 2016). Second, many research participants pointed to a relation between the practices surrounding the fight against impunity and the erosion of trust in development NGOs. During one of the FGDs, an individual stated that, '[i]n the early days, we were really happy to see organisations that came to help victims. But when people started to abuse the problem, the perception changed'.<sup>18</sup> Third, a recurring point made in interviews was the possible 'boomerang effect' of misuse of the legal system. As one person put it: '[p]eople now just don't give a damn. It becomes difficult to believe that a woman has really been raped . . . people will say: *Uko natafuta makuta tu* (you only look for money)'.<sup>19</sup> Rather than creating a constituency for the fight against impunity, this may lead in fact to social strengthening of acceptance of rape myths.

## Conclusion

This paper began by highlighting that the response to sexual violence in eastern DRC that started around the turn of the twenty-first century had morphed into hype towards 2010, fed by reinforcing loops of media frenzy, NGO eagerness, and pragmatic local responses. Initial research in 2011 revealed many widely observed perverse effects of this hype. The crucial issue that informed the second round of fieldwork was: how would this play out? Hype cannot be sustained so would the negative effects become more dominant? Or would the hyper attention normalise and result in more serious attention to gender issues in the DRC?

The findings from 2014 point to a remarkable process of incremental change in the response. Without a formal policy shift, the response to sexual violence has evolved and become more regulated, coordinated, and institutionalised. The approaches of the actors dealing with sexual violence have altered. More attention is paid to other forms of gender-based violence and women's empowerment and leadership, and victim-oriented support has largely transformed into community-based action.

There is now a remarkable gap between the response to sexual violence and gender-related activities on the ground and the international rhetoric (and fundraising) that continues to focus on rape as a weapon of war. The response to sexual violence continues to be driven largely by international actors and is almost entirely dependent on international funding. The increasing engagement of the Congolese government and the burgeoning group of national research and development institutions concerned with evidence-based approaches to gender are a positive but small and aid-dependent legacy of the hype.

While incremental change is occurring, there has not been a sector-wide evaluation of the response to sexual violence. Such an assessment is highly recommended as it could take stock of the impact of the response to the structural causes of sexual violence, and potentially could lead to pertinent lessons on how agencies can improve their fundraising policies in cases that are prone to media frenzy.

The long-term effects of the attention on sexual violence are still emerging, yet it is clear that the hype has left marks on the urban social fabric, where the fight against impunity, spearheaded by international actors, has become embedded in the political economy of survival and corruption, and seems to add to moral confusion about gender relations. This is a subject requiring further study, particularly by Congolese actors dedicated to advancing socially-just gender relations in the country.

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## Endnotes

- <sup>1</sup> 'Loi N°06/018 du 20 Juillet 2006 modifiant et complétant le décret du 30 Janvier 1940 portant code pénal congolais' and 'Loi N° 06/019 du 20 Juillet 2006 modifiant et complétant le décret du -6 Aout 1959 portant code de procédure pénale congolais'.
- <sup>2</sup> See <http://www.qsrinternational.com/nvivo/what-is-nvivo> (last accessed on 14 November 2017).
- <sup>3</sup> Interview with representatives of a Congolese NGO, 19 May 2014.
- <sup>4</sup> Interview with a donor representative, 27 May 2014.
- <sup>5</sup> Interview with a UN representative, 27 May 2014.
- <sup>6</sup> Interview with representatives of an international NGO, 22 May 2014.
- <sup>7</sup> The figures were examined during an interview with a representative of the Congolese jurisdiction on 28 May 2014, but no copies could be made.
- <sup>8</sup> Interview with a UN representative, 29 May 2014.
- <sup>9</sup> Interviews with a representative of an international NGO, 21 May 2014 and UN representatives, 23 May 2014 and 29 May 2014.
- <sup>10</sup> Interview with a Congolese jurisdiction representative, 24 May 2014.
- <sup>11</sup> Interview with a Congolese jurisdiction representative, 24 May 2014.
- <sup>12</sup> Interview with a representative of the Congolese legal administration, 27 May 2014.
- <sup>13</sup> Interview with a Congolese jurisdiction representative, 28 May 2014.
- <sup>14</sup> Interview with a representative of a Congolese NGO, 19 October 2011.
- <sup>15</sup> FGD with Bukavu citizens, 23 May 2014.
- <sup>16</sup> Interview with a Congolese jurisdiction representative, 24 May 2014.
- <sup>17</sup> Focus group with Bukavu sex workers, 23 May 2014.
- <sup>18</sup> FGD with citizens in Bukavu, 23 May 2014.
- <sup>19</sup> FGD with citizens in Bukavu, 23 May 2014.

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