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SEXUAL VIOLENCE IN THE DEMOCRATIC REPUBLIC OF CONGO:  
MOVING FORWARD WITH DIMINISHED IMPUNITY FOR CRIMES AND  
INCREASED SUPPORT FOR VICTIMS  

Madeleine Gorman

The scope of this paper is far narrower than the scope of the conflict itself. What will be treated in these pages cannot even be said to constitute the tip of the iceberg of sexual violence in the Democratic Republic of Congo (DRC), which is only a part of a far greater conflict. In light of the recent release of the United Nations’ (UN) “Mapping Report,” this paper deals mainly with sexual violence perpetrated in the eastern DRC from 1993-2003. The instances that are addressed here have been chosen as representative of the nature of the conflict because they illustrate the specific challenges faced in bringing perpetrators to justice. Many of the proposed legal approaches to post-conflict rebuilding in the DRC take transitional justice mechanisms into account. Due to the severity and magnitude of social and psychological trauma suffered, transitional justice has an important role to play beyond the legal context in the DRC.

“In modern wars, the greatest casualties of the conflict are civilians.¹ During these attacks, female civilians are subjected to the same violence to which male civilians are subjected. Both are murdered, tortured, displaced, imprisoned, starved and subjected to slave labour. Yet in addition to these crimes, women and girls are also singled out for additional violence – gendered violence – that is commonly manifested in the form of sexual violence.”²

I. Introduction

In the Congolese context, the severity of the sexual violence problem is largely attributed to continued impunity and a lack of institutional independence of the judiciary. International opinion generally treats transitional justice methods, like special courts and tribunals, as being essential to the establishment of peace and the re-building of Congolese society. According to the UN Mapping Report, a mixed chamber is the most

appropriate style of transitional justice court system for this particular context. Beyond overcoming the pervasive impunity associated with sexual violence in the DRC, special resources must be developed to provide direct aid and assistance to the victims of sexual violence. Not only will this encourage victim-witnesses to come forward, it will also help victims and their communities to rebuild and reconcile. This paper examines viable legal and social remedies for victims of sexual violence in the context of widespread impunity in the DRC. The most essential of these are providing adequate medical, psychological and economic aid to victims of sexual violence. These resources are required to help ease trauma and, ideally, to facilitate their participation in the peace-building process. The increased visibility of women in the public sphere is also integral to post-conflict rebuilding in the DRC.

II. A Brief History of Conflict in the DRC

Mobutu’s reign as President of the Democratic Republic of Congo (then Zaire) came to a violent end during the First Congo War. There was decreased political stability in the DRC in the three years leading up to this clash. At the same time, the declining Zairian state was faced with the devastating aftermath of the Rwandan genocide. This particularly affected the eastern Congolese province of North Kivu, which shares a border with western Rwanda. The First Congo War and the commencement of President Laurent-Désiré Kabila’s violent regime occurred between July 1996 and July 1998. This period was characterized by extensive violations of international law, including the mass killing of Hutu refugees and of members of militia involved in the Rwandan genocide.

3 The First Congo War took place from November 1996 to May 1997.
5 The UN Mapping Report documents 104 reported incidents.
Many different countries contributed to the instability and violence at this time, which showed a dramatic increase in serious attacks on civilians in all provinces. The attacks are particularly attributed to the retreating Forces Armées Zaïroises, the ex-Forces Armées Rwandaises and the Mayi-Mayi. From the start of the Second Congo War in August 1998, and the death of Kabila, the Mapping Report documents 200 incidents of violence committed against civilians. The period is marked by regional intervention by forces from at least eight national armies and 21 irregular armed groups fighting either for or against the Forces Armées Congolaises. The 2002 signings of the Pretoria Agreement with Rwanda and the Luanda Agreement with Uganda began the withdrawal of foreign forces from the DRC. This by no means brought an end to the violence endured by Congolese civilians. Armed conflict and flagrant violations of human rights and international law have continued up to present day. Sexual violence rates have soared in this long period of instability and incredibly brutal violence. The extended conflict has led to the normalization of this type of crime to the extent that it now represents a large portion of the war crimes committed.

6 Ibid., para 18.
7 FAZ, national army of Zaire.
8 FAR, national army of Rwanda before July 1994.

The term ‘Mayi-Mayi’ is used to designate groups that resort to magic rituals such as water ablutions (“mayi” in Swahili) and carry amulets prepared by witchdoctors that they believe make them invincible. The Mayi-Mayi groups have included warlords, traditional tribal elders, village heads and local political leaders. Some of the most violent use of sexual violence can allegedly be attributed to them.

10 Ibid., para 19. FAC, Forces Armées Congolaises (national army of the DRC from June 1997).
The UN has named the DRC the “rape capital of the world” with an estimated 15,000 women raped in eastern Congo in the last year alone.\textsuperscript{12} The Rwandan genocide exodus in 1994 led to the mass migration of more than 1,000,000 Rwandans into the Congo, mostly Hutus.\textsuperscript{13} Prior to this population change, and prior to the brutal Congolese civil wars in 1996 and 1998, the eastern provinces already had a high rape rate; however, rape was not attributed to military activity as it now is. Formerly, rape in the DRC was linked to women’s low legal status in traditional and civil realms. The rapes during the pre-conflict period are described as having occurred when a male “admirer” raped a girl who had gone off to gather resources or farm. It was customary in these cases for the matter to be settled privately between the families. This normally meant the two would be married or the perpetrator would pay restitution to the girl’s family in the form of one or two goats.\textsuperscript{14} This so-called solution to rape is completely unacceptable. It binds victims to their aggressor, which creates further opportunities for sexual violence, and in the Congolese context the marriage contract provides social validation for future attacks as a private issue. Since 1993, there have been extraordinarily high levels of violent rape being perpetrated by military aggressors. As a result, rape and sexual violence have reached the community level. These crimes are now so normalized in the DRC that civilians often rape in order to settle minor transgressions or old personal scores.\textsuperscript{15}

\begin{thebibliography}{9}

\bibitem{15} There was one instance where a girl was raped by the owner of a mango tree for taking a fruit without asking. Ibid., 9-10
\end{thebibliography}
harmful value shift toward the violent commoditization of women is likely to take
generations to reverse and will severely inhibit civilian progress in the region.\textsuperscript{16}

III. Range of Attitudes toward Rape

During armed conflict, “women are often killed in a gender-related manner”; rather than
simply being murdered, their murder is sexualized.\textsuperscript{17} The international community has
been slow to recognize this practice as an element of warfare. The prosecution of
perpetrators of sexual violence and adequate accountability to their victims has been even
slower and is still unacceptably rare. Rape has traditionally been treated as a crime
motivated by sexuality, rather than by violence and abusive exercise of power.
Nevertheless, sexual violence is finally being acknowledged internationally as a violation
of human rights and humanitarian law worth devoting resources to addressing. A
milestone in this progress was the 1998 codification of the Rome Statute of the
International Criminal Court (ICC). The Rome Statute recognizes the use of sexual
violence as a war crime and a crime against humanity.\textsuperscript{18} This change reflects the
inclusion of women’s rights into the structures of international humanitarian law, which
addresses these crimes in the mainstream, rather than marginalizing them as a side effect

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\textsuperscript{17} UN Office of the High Commissioner for Human Rights, Report of the Mapping Exercise, para 298.
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\textsuperscript{18} International Criminal Court, Rome Statute of the International Criminal Court, 1998, UN Doc A/CONF.183/9, http://untreaty.un.org/cod/icc/statute/romefra.htm. Another groundbreaking advance made by the Rome Statute is the broadening of the definition of war crimes beyond war to include internal armed conflict. This extension of the definition is particularly important because the armed conflict in the DRC involves many different factions who are not always affiliated with an official military movement.
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of war.\textsuperscript{19} According to the Rome Statute, depending on the context in which crimes are committed, “crime against humanity” and “war crime” may be applied to “rape, sexual slavery, enforced prostitution, forced pregnancy, forced sterilization and any other form of sexual violence of a comparable severity.”\textsuperscript{20} While this expanded definition of “war crime” is able to better address the widespread use of sexual violence in the DRC, its application may not be possible due to restrictive temporal jurisdiction rules. Despite official legislative attempts to protect women and children from sexual violence,\textsuperscript{21} and despite the frequent presence of the issue on the agenda of the UN Security Council, this does not translate into actual protection, especially during times of conflict.\textsuperscript{22} In addition, resources specifically allocated to medical assistance for those who have been subjected to sexual violence remains extremely scarce and there is little in place to address the long-term, psychological trauma suffered by many women.

i. Effect of Rape on the Community

Often, in other African conflicts, military actors carry out rapes when women go off in search of water or food, when farming in the fields, or when their village is attacked.\textsuperscript{23} In the DRC the rapes are not limited to this scenario. They usually occur in victims’ homes, during daylight hours and with no apparent provocation. Armed militants have introduced gang rape, rape with foreign objects, genital mutilation, and the taking of women as


\textsuperscript{20} International Criminal Court, \textit{Rome Statute of the International Criminal Court}, 1998, UN Doc A/CONF.183/9, Article 7 g, para 1 b xxii) and e vi), and Article 8, para 2.

\textsuperscript{21} Violence against women and children, including sexual violence, was explicitly incorporated into the new Congolese Constitution, which was approved in December 2005. \textit{Constitution de la République démocratique du Congo}, Kinshasa, Feb 18, 2006, Articles 14, 15, and 41, http://democratie.francoaphonie.org/IMG/pdf/Constitution_de_la_RDC.pdf.

\textsuperscript{22} Bosmans, “Challenges in Aid to Rape Victims: The Case of the Democratic Republic of the Congo.” 3.

\textsuperscript{23} Ibid.
sexual slaves. These attacks effectively destroy future generations by killing men and children and by injuring the women so badly they are left infertile. Another result of these attacks is a rape birth rate, since abortion is illegal in the DRC. In some cases, rapes have been apparently committed in an attempt to force pregnancies to alter the ethnic makeup of the targeted communities. Additionally, homes are frequently burnt in this severely impoverished region, which traumatizes survivors further and makes it even more difficult for the targeted communities to rebuild.

Sexual violence and military rape have been established as a part of a broad attempt to destabilize civilian life. These brutal acts are often deliberately committed in the presence of the community in order to humiliate, objectify and terrorize civilians into submission. The struggle over rich natural resources in the DRC is largely responsible for the regional conflicts and instability makes it easier for military aggressors to pillage the villages and exploit the land. Loss of life is not a concern to military groups and civilians have become the target of brutal attacks. These attacks often lead inhabitants to abandon their homes and flee their villages. Since many of the armed groups are operating with extremely limited supplies, rape is offered as a reward for military

27 Ibid.
28 Ibid., 41, 44.
victories and the looting of victims’ homes is treated as payment for their service.\textsuperscript{30} Beyond these tangible harms, these communities also suffer unspeakable psychological and emotional trauma as a result of sexual violence.\textsuperscript{31}

\textbf{ii. Women and Children as a Military Target}

Rape has a staggering effect on communities because women are integral to subsistence agriculture in the DRC.\textsuperscript{32} They generally “account for 73\% of those economically active in agriculture and produce more than 80\% of the food crops.”\textsuperscript{33} For safety reasons, many women do not go to work in the fields during times of conflict and instability. Injuries sustained during rape and sexual violence also frequently leave women physically unable to work. For this reason, sexual violence has a tremendous economic impact on these communities and often results in poverty and malnourishment. Communities in the DRC rely on women to raise children and produce food; this perpetuates an especially vicious cycle. The problem is compounded by the interruption of children’s education, as they must stay home from school to remain safe from attacks.\textsuperscript{34} This disruption has a severely negative impact on productivity and it further jeopardizes the communities’ survival.

Traditional patriarchal views on gender are prevalent in the DRC, where husbands and fathers treat women as lesser members of society. Due to customary belief in the value of a woman’s purity and the importance of a pure bloodline, Congolese culture

\begin{itemize}
\item \textsuperscript{30} Ibid.
\item \textsuperscript{31} Ibid.
\item \textsuperscript{32} Pratt et al., \textit{Sexual Terrorism: Rape as a Weapon of War in Eastern Democratic Republic of Congo}, 7.
\item \textsuperscript{34} Pratt et al., \textit{Sexual Terrorism: Rape as a Weapon of War in Eastern Democratic Republic of Congo}, 13.
\end{itemize}
views the victim as defiled after rape. This attitude is exacerbated by general fear surrounding the transmission of HIV/AIDS, which is prevalent in the region. Due to this predominant mentality, husbands frequently abandon their wives after these types of attacks. Adding to the problem of abandonment, women are not customarily permitted to own property. This means that, following rape, when families cast out women or girls, it leaves them in dire economic conditions. Often they are faced with the additional burden of having to provide for their children, whether conceived with the abandoning husband or as a result of the rape.

Abortion is illegal in the DRC and, traditionally, Congolese families are either unable or unwilling to adopt orphans and unwanted children. This is linked to extreme poverty and the perceived importance of a pure patriarchal bloodline. Due to the extraordinarily frequent occurrences of sexual violence, there is a now a generation of children resulting from the rape of their mothers. According to a 2001 report, Human Rights Watch estimates that at least 5000 children resulted from the Rwandan genocide, but it is unknown how many such children were born in the DRC, where the conflict has lasted almost 20 years. These children are often rejected or abandoned by their mothers who themselves have frequently been abandoned by their husbands and families. Beyond the unimaginable difficulty for a mother to have a child born out of such a traumatic event, the United States Agency for International Development (USAID) discovered, not surprisingly, that the children themselves suffer as well. There is no infrastructure in place to protect or to raise these children, who have been labeled ‘children of hate’ or ‘unwanted children’ by their communities. Children who are suspected or known to be

35 Ibid., 12.
36 Ibid.
rape children are excluded from their communities and are likely severely traumatized by their origins.\textsuperscript{37} The reality of the rape birth rate is almost without mention in many studies on the conflict, which is a grave oversight. These children are members of the generation who will hopefully bring peace to the region. As such, their sense of equality must be established now, rather than corrected later on. Further, these women and children will be profoundly traumatized and will need special, long-term psychological care.

In Resolution 61/143 of 19 December 2006, the General Assembly acknowledged that women and girls are specifically targeted and victimized by sexual violence.\textsuperscript{38} This targeting will significantly exacerbate the peace-building process in situations of armed conflict, post-armed conflict, and refugee and internally displaced person settings. The connection between these crimes and the aggravation of conflicts is clear in the DRC, where sexual violence is openly used as a retaliation tactic between communities or militias. It is also used to punish communities for allegedly supporting another political party or armed faction. The logic behind this use of violence is inherently flawed. Retaliatory rape assumes that villages support the militias who terrorize their community. In reality, it is far more likely that these villagers fear their aggressors. Thus, the so-called retaliation is punishment for an allegiance they do not bear. In repeatedly-targeted communities, the brutality escalates from one attack to the next, as each military group

\textsuperscript{37} USAID reported that Congolese children born of rape are teased and called “Hutus,” referring to the suspected nationality of the rapist-father. Ibid.

tries to outdo the other.\textsuperscript{39} In the rebel-controlled zone, for example, during the conflict between the Mayi-Mayi and the Armée Nationale Congolaise\textsuperscript{40} / Armée Patriotique Rwandaise,\textsuperscript{41} and also in some regions controlled by the Centre National pour la Défense de la Démocratie\textsuperscript{42} / Front pour la Défense de la Démocratie,\textsuperscript{43} each militia attempted to establish and sustain power by being the most fearsome group. Women, who were specifically targeted, paid the dearest price.

iii. The Under-Reporting of Sexual Violence in Conflict

The belief that rape is an inevitable by-product of armed conflict is profoundly damaging to all efforts to bring perpetrators to justice. It manifests itself in different ways. For example, the end of the First Congo War brought an end to the FAZ / Mobutu regime. When they retreated, the Alliances Forces Démocratiques pour la Libération du Congo\textsuperscript{44} / Armée Patriotique Rwandaise\textsuperscript{45} seized control of government and began a reign of terror. There was so much violence and such a great deal of life lost that published reports covering the conflict in this period do not bother to distinguish sexual violence from the other crimes committed.\textsuperscript{46} This is indicative of the general attitude toward these types of offences. By under-reporting sexual violence, sources reinforce the treatment of these crimes as separate from armed conflict, which they are not. It also upholds the view that

\textsuperscript{40} ANC, armed wing of Rassemblement Congolais pour la Démocratie-Goma. Here, the ANC is grouped with the APR because, due to similarities in the clothing and regional presence of the two groups, it was difficult for victims to distinguish which group perpetrators belonged to. For the same reason, other military groups are often mentioned together, separated by a “/”.
\textsuperscript{41} APR, national army of Rwanda from 1994-2002.
\textsuperscript{42} CNDD, Burundian Hutu Movement.
\textsuperscript{43} FDD, armed wing of CNDD.
\textsuperscript{44} AFDL, Alliance des Forces Démocratiques pour la Libération du Congo.
\textsuperscript{45} APR, national army of Rwanda from 1994-2002.
instances of sexual violence are somehow secondary or less atrocious than the violence of war, which they certainly are not. The UN Secretary General’s Investigative Team was tasked with investigating serious human rights and international humanitarian law violations in the DRC. They reported that rapes were likely to have been committed by the AFDL/APR during the reported attacks on the five large refugee camps in North Kivu in October/November of 1996.\textsuperscript{47} Even with this acknowledgement, the Investigative Team does not give any details. They treat the sexual violence as outside the human rights and international humanitarian law violations that were actually included in the report.\textsuperscript{48} The exclusion of sexual violence from reports and criminal charges is inexplicable, given that it has been on the UN’s agenda since the Economic and Social Council (ECOSOC) asked the UN General Assembly to adopt the Declaration on the Protection of Women and Children in Emergency and Armed Conflict in 1974.\textsuperscript{49} This area of law has developed an enormous deal since 1974, making it all the more remarkable that sexual violence is still being treated as peripheral in conflict reporting, peace-building and conflict resolution.

“The impressive struggle of local NGOs, human rights advocates, health personnel, religious groups, and survivors to deal with and address sexual violence in eastern Congo is unfortunately being undermined by attitudes toward rape encountered by the assessment team in different sites in the eastern DRC.”\textsuperscript{50} Rape was formerly a taboo issue, but the events of the last few decades have brought it abruptly into the open

\textsuperscript{47} Ibid.
\textsuperscript{48} Ibid.
and into the international media. This has caused embarrassment among the Congolese people. Due to their deeply ingrained patriarchal attitudes toward women, many Congolese men describe feelings of humiliation after the women in their families have fallen victim to sexual violence. When these men claim the harm suffered as their own, rather than acknowledging the suffering of their wives and daughters, it objectifies the victims even further. Due to strict gender roles, this reaction poses a significant risk factor for further violence in the form of male attempts to reassert control. \(^{51}\) Humiliation also leads sexual violence to be dismissed as a mere side effect of war and armed conflict. Unfortunately, this attitude is prevalent among those in positions of power, which weakens prevention efforts and reinforces or encourages judicial impunity. USAID has reported that in North Kivu, one commander of a sub-office in the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo \(^{52}\) told several members of the team that rape was “normal” and predictable behaviour from soldiers who were deprived of contact with women. \(^{53}\) Another USAID assessment team was told that one representative at the highest levels of transitional government was overheard referring to rape as a “women’s” issue that should be dealt with by women. \(^{54}\) This is an unacceptable view for MONUSCO officials to hold privately, much less to speak of in public. It strongly suggests that reports of rape by survivors or by particularly hard-hit communities will not be taken seriously, and they frequently are not. A dismissive attitude toward sexual violence among individuals in power affects more than


\(^{52}\) MONUSCO as of July 1, 2010.


\(^{54}\) Ibid.
the opinions of others in office. It is reflected in the fact that charges are never actually brought forward in the vast majority of rape cases.

The DRC has very strong customary laws that favour men over women. Sexual violence is not treated as of equal importance as general conflict violence because the primary victims are women. These crimes have a decidedly gendered aspect where, normally, men assert their power over women by dehumanizing and commoditizing them. This is not a primarily sexual act, as some people mistakenly believe. It is a decidedly political act. Nevertheless, the gendered aspect of these crimes results in its marginalization and its dismissal as either a “women’s issue,” as a matter that is secondary to the military conflict, or worse, as “natural” behaviour that is to be expected of soldiers who are isolated from women for long periods of time.


In October 2010, the UN issued a Mapping Report, which documented human rights violations committed in the Congo from 1993 to 2003. Congolese diplomat Ileka Atoko responded to the report, calling it “detailed, credible and heartbreaking.”55 The Mapping Report is the first of its kind to deal with human rights offences during the conflict in the DRC. It notes the involvement of at least 21 armed Congolese groups in the violations and it also recognizes military operations by eight foreign states inside the DRC.56 The report addresses more than 600 offences and claims and “the majority of the incidents of sexual violence reported, could if judicially proven, constitute offences and violations under domestic law, international human rights law, and international

55 Ibid.
humanitarian law.”57 The Report does not, however, claim to meet the evidentiary standard required to try these offences in court.58 Upon their eventual prosecution, thorough investigations of these crimes will still need to be conducted. The report is not designed to be trial-ready. It is designed to find ways “to deal with the legacy of these violations, in terms of truth, justice, reparation and reform, taking into account ongoing efforts by the DRC authorities, as well as the support of the international community.”59

The Mapping Report attempts to establish factual accounts of the crimes being committed so that healing and reform can take place. In this way, it resembles the goal of some transitional justice mechanisms, such as truth commissions. The Report devotes specific and focused attention to sexual violence against women and children as part of military tactics employed by all combatant forces involved in the conflict.

There are multiple forms of sexual violence in the DRC. The Mapping Report breaks them down into somewhat superficial categories, but they help to give a sense of the trauma and long-term psychological damage these attacks will have on the individual victims and their communities. Sexual violence as an instrument of terror includes torture and humiliation, forced rape between victims (including incest), a deliberate policy of spreading HIV/AIDS, and acts of sexual violence during military victories or defeats. Sexual violence committed on the basis of ethnicity and sexual violence committed in the name of ritual purposes are sometimes connected, as it is believed by some Mayi-Mayi

that Pygmy women have healing powers. Sexual slavery has also been prevalent, where individuals are held for sexual purposes for more than 24 hours, and often for months. Within the category of sexual slavery falls the particular case of child soldiers. It was common practice that female Children Associated with Armed Forces and Armed Groups would be forced to serve as sex slaves or “wives” for the commanding officers. In addition to this practice was the inculcation of male child soldiers into the practice of rape. Male CAAFAGs, known as Kadogo, were forced to commit rape or other brutal acts, supposedly in order to toughen them up. If they refused, they would be executed.

Due to the uniqueness of this particular form of sexual violence, special measures will have to be taken at the trial stage to treat these crimes with the appropriate sensitivity.

IV. Climate of Impunity in the DRC

“There is absolutely no doubt that the scale and gravity of acts of sexual violence are directly proportional to the victims’ lack of access to justice and that the impunity that has reigned in recent decades has made women even more vulnerable than they were

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60 For protection, some of these soldiers are known to have worn amulets made from the body parts of Pygmy women. UN Office of the High Commissioner for Human Rights, Report of the Mapping Exercise, para 648.
61 Prosecutor v. Thomas Lubanga Dyilo, International Criminal Court 01/04-01/06, Transcription of hearings from Trial Chamber I (February 3, February 27, and March 6, 2009). CAAFAG, Children Associated with Armed Forces and Armed Groups.
62 “Little ones” in DRC colloquial Swahili.
During the severe political transition at the national level in 2003, cases of rape and violence diminished noticeably as there were high expectations that law and order would be restored. When this new stability failed to materialize, perpetrators resumed their attacks on the population. This trend illustrates the nature of the relationship between impunity and sexual violence. As UN Special Representative on Sexual Violence in Conflict, Margo Wallström, has rightly said, “zero tolerance has been underpinned by zero consequences.”

Section III of the Mapping Report focuses on the Congolese justice system. Since 1993, ongoing civil war and armed conflict in the DRC has eroded many government institutions, including a breakdown of the justice system. This dysfunction remains a problem today. A lack of institutional independence and widespread corruption has made the system untrustworthy and inefficient. In addition, many of the individuals suspected of responsibility for serious human rights violations are now in senior government and military positions. The government has demonstrated an unwillingness to exclude these individuals from the benefits of peace agreements. Some of them were promoted in the military ranks in 2002 when their groups were integrated into the national army. The promotion of these culprits into institutions that have official control over the nationwide use of force has left millions of victims, who are now legitimately under the power of their aggressors, with nowhere to safely report the crimes committed.

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66 Pratt et al., Sexual Terrorism: Rape as a Weapon of War in Eastern Democratic Republic of Congo, 7.
69 Ibid., para 1138.
against their communities.\textsuperscript{70} Wallström has urged that perpetrators of rape and sexual violence should be excluded from benefits of disarmament or amnesty provisions, prevented from returning to civilian life, and barred from any role in politics or government.\textsuperscript{71} So far, no action has been taken to this end.

The serious violations of human rights and international humanitarian law that were committed between 1993 and 2003 (and since) have generally been met with an attitude of near total impunity. At the time it was written, the Mapping Report noted that, “the exclusive competence of military courts over crimes under international law has resulted in growing impunity, as demonstrated by the very small number of investigations and prosecutions of war crimes and crimes against humanity, despite the outrageous number of crimes committed.”\textsuperscript{72} Under current Congolese domestic law, military courts have exclusive jurisdiction to try these crimes.\textsuperscript{73} Meanwhile, it is openly acknowledged that the DRC’s military courts lack the requisite political independence from the executive, legislative and administrative powers of the State. Both the Congolese public and the international community openly acknowledge political and military interference in the justice system.\textsuperscript{74} This means that the most serious crimes are simply not being tried in accordance with the principles of justice. The UN has condemned the Congolese judicial process as a serious problem, questioning “the capacity of the Congolese military

\textsuperscript{70} Ibid., para 977. This is one reason why the protection of victims, witnesses and main actors in the judicial system is vital to the effective prosecution of perpetrators holding positions of authority.
\textsuperscript{72} UN Office of the High Commissioner for Human Rights, Report of the Mapping Exercise, para 974.
\textsuperscript{73} Ibid., para 829. This refers to war crimes, crimes against humanity and genocide.
\textsuperscript{74} Ibid., para 929.
authorities and judiciary – particularly in view of interference from political actors and the military command structure – to decisively address impunity and hold trials for serious human rights violations.”\textsuperscript{75}

Despite the DRC’s obligation under the Geneva Convention to curb serious breaches of human rights, the mapping team reports that, according to Congolese judicial authorities, “no judgment for war crimes or crimes against humanity had ever been issued under the Military Justice Code of 1972, which remained in force until 2003.”\textsuperscript{76} The military law was reformed in 2003, after the 2002 signing of the Pretoria Agreement and the Luanda Agreement began the official withdrawal of Rwandan and Ugandan national forces. Since then, very few cases handling crimes against international law have been dealt with by the military jurisdiction currently in place. A near total impunity for these crimes has proven that offenders will not be held accountable and has served to encourage the perpetration of new and serious violations of human rights and international humanitarian law.

The Congolese public does not view the military courts as capable or reliable enough to fight the overwhelming impunity for the atrocious violations of their fundamental human rights.\textsuperscript{77} A preliminary report states that between 30 July and 2 August 2010, at least 303 civilians were raped during an attack on villages in the

\textsuperscript{75} Ibid., para 961.
\textsuperscript{76} Ibid., paras 893-94. Of the multitude of violations of international law listed in the Mapping Report to have been committed from March 1993 to June 2003, military tribunals have only addressed two crimes that can be classified as war crimes, one of which resulted in the acquittal of all accused. Ibid. para 890.
\textsuperscript{77} Ibid., para 979.
Walikale region in North Kivu. After these attacks, the government placed a moratorium on mining in the region and sent in national military to secure peace. There were soon reports that the military had perpetrated rapes on the same community they were sent to protect. In response to these horrendous events, Wallström declared, “When commanders can no longer rest easy in the certainty of impunity; when it begins to cross their mind that they may be turned in by their own for commissioning or condoning rape; this is the moment when we open a new front in the battle to end impunity.” Congolese armed forces should be thoroughly vetted in order to remove soldiers and officers suspected of having committed atrocities against civilians.

V. Legal Frameworks Applicable to Sexual Violence

Article 15 of the Congolese Constitution includes sexual violence as a crime against humanity, and a 2006 revision includes rape with objects to criminal legislation. “Law No06/019 of 20 July 2006 on sexual violence provides that the victim is entitled to the assistance of legal counsel during all phases of the judicial procedure. It is not specified who will provide the victim with this counsel, but the State obviously has a key responsibility, at least to guarantee the rights to a fair trial and an effective remedy.” The DRC Sexualized and Gender-Based Violence (SGBV) delegation of the Swedish Foundation for Human Rights found no examples where the Congolese state used its

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80 Plett, “Interview of Margot Wallström by BBC UN correspondent, Barbara Plett.”
resources to undertake this responsibility; once again, legislative attempts exist on the page, rather than in the field.\textsuperscript{83} Regardless, this law does not apply to the period from 1993-2003.\textsuperscript{84} During that period, rape is defined under the narrow provisions of the 1940 Congolese Criminal Code, which does not even remotely cover the full range of sex crimes perpetrated in the DRC. The Rome Statute definitions of these crimes are far more inclusive. The DRC has not yet adopted the Rome Statute into its domestic law, but this does not diminish the country’s ratification of the statute. Therefore, the DRC is still bound by the statute, but cannot try the crimes in their domestic courts until the appropriate legislative changes are made. The Rome Statute was not codified until 1998, which technically places a restriction on the start-date of the statutory temporal jurisdiction. By arguing that the offences listed in the Rome Statute were already customary international law in 1996, the Special Court for Sierra Leone was able to overcome this temporal restriction. Professor Valerie Oosterveld of the Faculty of Law, University of Western Ontario, suggests this same standpoint can be argued in the case of the DRC. This would enable the use of crimes listed in the Rome Statute to prosecute offences committed from the beginning of the conflict in 1993.\textsuperscript{85}

i. Transitional Justice – Congolese Mixed Chamber

The concept of transitional justice has developed as a response to instances where human rights are violated systematically or on a widespread scale. Its initiatives are developed in order to facilitate “recognition for victims and to promote possibilities for peace,
reconciliation and democracy.” At present, transitional justice has been used as an approach to post-conflict rebuilding in countries emerging from a period when human rights offences were overwhelmingly pervasive. The general consensus in the international community is that transitional justice is appropriate in the Congolese context, but still at issue is which types of transitional justice mechanisms should be implemented. The UN declared in Resolution 1820 (2008) of the Security Council, dated 19 June 2008, that “sexual violence, when used or commissioned as a tactic of war in order to deliberately target civilians or as a part of a widespread or systematic attack against civilian populations, can significantly exacerbate situations of armed conflict and may impede the restoration of international peace and security.” The high prevalence of sexual violence in the DRC calls for transitional justice mechanisms to be established. These mechanisms must be designed to take prevalence into account, while remaining sensitive to the needs of the victims of sexual violence and their communities. This is a fundamental step toward rebuilding a Congolese society that will value women and in which women will be able to actively participate; it will require the correction of traditional political and structural inequalities between men and women. The small number of women in the judiciary also contributes to the overall impunity for crimes of sexual violence and will need to be increased over time. There must be major reforms of the justice and security sectors in order to combat the near total impunity for these crimes.

88 Ibid.
There is currently draft legislation that will implement the Rome Statute of the ICC into Congolese domestic law. Once it is approved, the Rome Statute jurisdiction to try war crimes, crimes against humanity and genocide will no longer be vested solely in the military courts. These crimes will move to the civilian courts. When this has been achieved, the DRC will need a court with the expertise and the judicial independence to try these crimes. The Congolese civil law system lacks adequate funding, personnel, transportation, training, professional development, witness protection, expertise, and judicial independence. To overcome these shortcomings, the Mapping Report indicates a strong preference for the creation of a hybrid court model called a “Mixed Chamber” that is made up of national and international staff. The involvement of international personnel will bring procedural expertise and will help to minimize the proven lack of capacity of the Congolese domestic justice system to function independently. Meanwhile, the inclusion of national personnel will facilitate a Congolese sense of ownership of the process, which is a key to renewing public faith in the justice system. Congolese staff would also provide crucial knowledge of the historical roots of the conflict. They will be able to inform the interaction of the chamber with their unique cultural context and will also bring expert knowledge of Congolese criminal law and legal procedure. Surprisingly, in the many reports calling for the establishment of a mixed chamber, there is practically no mention of gender parity on the chamber bench. While there may be a current shortage of female judges in the DRC, women could and certainly should be appointed from the international community. Given the gendered nature of many of the

89 Ibid., para 904.
90 Ibid., para 61.
crimes that will be tried, gender composition on the bench is of central importance to the chamber’s success and it should be adequately addressed in the planning stage. The fact that it has not been emphasized thus far is cause for great concern and international political powers should take it upon themselves to urge the DRC government to address the issue head on.

In its initial written comments on the Mapping Report, the DRC government responded to the possibility of creating a mixed chamber. They proposed it be situated within the Congolese judicial system but that it should have jurisdiction over the most serious crimes committed in the DRC. This means that the special chamber would be vested with the jurisdictional power to investigate and prosecute crimes of the nature of those documented in the Mapping Report. The burden of proof is a particularly onerous evidentiary standard in sexual violence cases. Beyond that, these crimes are difficult to prosecute. The perpetrators are often difficult to identify, and they may be powerful figures in rebel armies or holders of senior positions in national armed forces. Even more complex is proving guilt for a crime as a matter of command responsibility, rather than proving the guilt of those who committed a crime directly. Establishing links between acts on the ground and orders or acquiescence from above requires extensive experience on the part of the prosecution. However, proving command responsibility has been successful in other international tribunals, like the International Criminal

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94 Ibid., 975.
Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, and therefore it should be treated as a realistic goal that should be undertaken in the Congolese context.

Additional expertise is needed to ensure procedural fairness and the protection of witnesses and judicial staff from political interference. The presence and participation of international staff will also legitimize potential attempts to prosecute crimes allegedly committed by non-Congolese perpetrators. Human Rights Watch urges that temporarily having international staff will give such a chamber the maximum credibility, judicial independence and expertise required to handle crimes that are very complex and difficult to prosecute. The long-term hope is that the nationals represented in the chamber will gain the necessary expertise and that international participants will be gradually phased out.

ii. Legal Foundation of the Mixed Chamber

The mixed chamber can be enacted either by domestic law, as was done for the Bosnian War Crimes Chamber, or by a formal treaty between the DRC government and the UN. Article 149 of the Congolese Constitution allows for the creation of a specialized jurisdiction. For this reason, the enactment of a domestic law would be a good way to integrate the mixed chamber into the DRC judicial system. It is possible to create a mixed chamber in the DRC with the enactment of only one law. If the law were integrated into

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95 Ibid., 978. “Cooperation on extradition from certain States remains unlikely, given the few guarantees offered by the Congolese military courts in respect of fair and equitable trials and respect for the fundamental rights of defendants, particularly as the death penalty is still provided for under Congolese law.”
97 “La loi peut créer des juridictions spécialisées.” Constitution de la République démocratique du Congo, Kinshasa, Feb 18, 2006, Article 149.
the current ICC/Rome Statute implementing legislation mentioned above, Parliament’s passing of this legislation would also mean the passing of the mixed chamber creation law. A less efficient yet still effective alternative would be to enact a separate law that would create the mixed chamber. If it were set up under Congolese law, this would still emphasize domestic ownership of the court and would not require formal UN involvement. If neither of these options is chosen, memoranda of understanding could be signed by partners who will assist with the chamber’s establishment, funding and support of its functioning.  

This method would not emphasize domestic ownership, but it would still succeed in creating the mixed chamber. Alternatively, a mixed chamber could also be created by a formal agreement between the UN and the DRC government.

According to both internationally accepted standards and the Congolese constitution, a mixed chamber of this nature should be based in the civilian justice system, rather than outside of it. It is not yet clear where in the civilian court system the mixed chamber would actually be located. Human Rights Watch believes it could, and probably should, have what is referred to as a “mobile” function. This would provide the court with one permanent location, but would enable it to hold some proceedings closer to where the crimes were committed. Where a specific region suffered particularly brutal or numerous attacks, use of the mixed chamber’s mobile function could emphasize Congolese ownership of the process. It may also enable victim-witnesses to testify in court who otherwise would not be able to travel to the permanent location. Victim-

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98 The Swedish Foundation for Human Rights, *Justice, Impunity, and Sexual Violence in Eastern Democratic Republic of Congo*, para 25. The UN, the African Union or the European Union would be potential partners under this method.

99 Ibid.
witness testimony is fundamental to the post-conflict judicial process and should be encouraged as much as possible.

Ideally, the policy-makers for the chamber should consult civil society regarding the temporal jurisdiction vested in the chamber. An ideal, though broad, jurisdiction would allow prosecution for crimes from March 1993 onward, which includes the period covered by the Mapping Report. This overcomes the temporal jurisdiction restraints on the ICC, which was created in 2002. It is essential that the temporal jurisdiction be left open-ended because serious international offences that would fall under the mixed chambers legal jurisdiction continue today. The mixed chamber should be given primary, but not sole, jurisdiction over cases that involve war crimes, crimes against humanity and genocide.

iii. Mandate, Targets and Composition of the Mixed Chamber

The primary focus of the mixed chamber should be those “persons most responsible” for committing war crimes, crimes against humanity and genocide. Depending on the severity of the crime or its scale, this refers particularly to those in political or military leadership and those down the chain of command who may be found “most responsible.” As an overall prosecutorial method, this would also facilitate the trying of lower-ranking officials who are suspected of committing particularly heinous crimes like GBSV crimes, especially those committed against a large number of victims. It is essential that the mixed chamber be set up to best prevent political interference and to promote efficiency. There are three key ingredients to ensuring this: it will need its own

100 Ibid.
mixed bench of judges, its own investigation and prosecution teams and its own administrative structure or “registry.”\textsuperscript{102} The registry deserves special attention. It would handle administrative functions that relate to the chambers operation, like the recruitment of staff, finances, security, management of evidence, documentation for trial, translations, and detention facilities. More importantly, the registry would also serve to promote procedural fairness for those being tried, as well as the wellbeing and protection of victims and witnesses. This would include facilitating the role of the defense, victims’ lawyers, managing witness protection, and the essential outreach to local population about trials.

Outreach is instrumental to both Congolese ownership of the process and to ensuring that victim-witnesses come forward to testify. An outreach to the local population is especially important for victims of sexual violence. The heavy stigma placed on survivors of those crimes has acted in the past as a strong deterrent against reporting. In the Bosnian War Crimes Chamber, a weak outreach program called the Court Support Network has made little progress in promoting the work of the court to those in the communities most affected by the crimes being tried. This area will need to be dramatically improved upon in the Congo. Much of the violence, including the brutal sexual violence, was carried out as retaliation or punishment for supporting opposing political groups or military factions. Therefore, in order to encourage victim-witnesses to come forward to report the crimes and testify against their aggressors, they must trust that the system will prosecute the perpetrators effectively and efficiently and that they will be protected from further violence carried out as a result of their testimony. Sexual violence

\footnote{\textsuperscript{102} The Swedish Foundation for Human Rights, \textit{Justice, Impunity, and Sexual Violence in Eastern Democratic Republic of Congo}, para 25.}
crimes are particularly complicated to prosecute, especially since they are so numerous in the DRC. The mixed chamber will have to actively promote accountability for these types of crimes, which will likely mean the inclusion of additional expertise in the mixed chamber in this area of law.\textsuperscript{103}

For this purpose, Human Rights Watch has proposed the creation of a “specialized sexual violence unit” in the mixed chamber that will attempt to assign responsibility for these crimes and provide expertise in their prosecution.\textsuperscript{104} This unit should also provide advice and training to other chamber staff to prepare them to interview victims appropriately and to handle sensitively the victims of sexual violence.\textsuperscript{105} Additionally, creating an option for closed sessions is likely to be a useful function of the mixed chamber. The Bosnia War Crimes Chamber uses this option, notably to protect a witness testifying under unusually dangerous circumstances.\textsuperscript{106} This should be written into the creation legislation in order to accommodate witnesses or witness-victims who may be risking their safety in order to testify against individuals in powerful positions.\textsuperscript{107}

VI. Essential Aid for Victims of Sexual Violence

“In the post-war transition period, the promotion of women’s human rights and gender equality is not seen as a priority, in particular in efforts to address the consequences of

\textsuperscript{103} Ibid.
\textsuperscript{104} Ibid.
\textsuperscript{105} This interview training will also be essential to addressing the special case of former child soldiers.
the armed conflict and in the peace building and reconstruction processes.”108 The Mapping Report makes it clear that the special traumas suffered by women and children must be explicitly addressed in the peace-building process. The gendered aspect of these crimes needs to be adequately addressed in the Congolese public. “Sexual violence in armed conflicts in the DRC is fuelled by gender-based discrimination in the society at large.”109 Customary laws regulate 75% of the law for the 60% of the Congolese population living in rural areas.110 This means that the law protects traditions governing the interaction between men and women and thus it enforces the rights of women as less than those of men. The rights of Congolese women and girls are generally subordinated to the honour of their husband, family and community. This attaches additional significance to their coming forward and denouncing rape, for which they may be abandoned or re-victimized by their community. Tragically, when a Congolese woman reports a rape, she may be putting her marriage at risk or seriously jeopardize her chances of ever getting married. Women are often cast out after falling victim to sexual violence and, as shelter and refuge options for these women and children are insufficient to meet the vast demand, they are exposed to the serious risks of violence in the street.111 This is one reason why many Congolese women and children end up working in prostitution. There is a serious lack of resources in aid for sexual violence victims. There have been many grassroots attempts to help women recover from the trauma of rape, such as centers

109 Ibid., para 533.
111 Bosmans, “Challenges in Aid to Rape Victims: The Case of the Democratic Republic of the Congo,”
set up by Congolese women to help one another. However, on a broader scale, providing some initial assistance tends to come at the expense of an almost total lack of long-term follow-up care for the victims, their family and their community. Frequently, programs for victims of GBSV stop once they are able to return to their home, despite the difficulties they will face upon rejoining their community. It is rarely acknowledged that, “problems of cohabiting with the family and the community may arise only after some months, or even after some years, as the effects of the trauma start to emerge.”\textsuperscript{112}

Bringing perpetrators to justice is crucial to Congolese ownership of the judicial process and of moving forward. The creation of a mixed chamber can help to address the complex post-conflict problems faced by many Congolese civilians. There is now a generation of Congolese children who have only known conflict and who have been raised in an environment where the violent and senseless rape of women was a perverse reality. Comprehensive social work is needed to combat subsequent views of rape as normal. More than that, something needs to be done to help the estimated tens of thousands of Congolese people who have fallen victim to these types of attacks. Validating these crimes as war crimes, rather than as a side effect of war, is essential to this process. Also fundamental to peace-building is the improvement of the situation of women, which can be encouraged by increasing their visibility in the prosecution and peace-building processes.

“Preventing rape and sexual violence not only includes fighting impunity, but also includes eliminating socio-cultural barriers that enhance the ‘acceptability’ of sexual violence perpetrated by non-combatants.”\textsuperscript{113} If changes to the structure of the DRC

\textsuperscript{112} Ibid.  
\textsuperscript{113} Ibid.
judicial process are to be expected to end the impunity toward these crimes, there must also be a change in the beliefs and opinions of many Congolese, especially those in the judiciary. Culture and tradition are frequently invoked to protect the practice of rape, coerced sex and the sexual abuse of minors.114 Given the general political and social devastation of the DRC over the past few decades, international financial aid will be required for there to be a meaningful rebuilding process. It is essential that the interests of the aid programs, whether they are national, international, governmental or NGOs, not be treated as paramount to the interests of those they are seeking to help. A non-comprehensive approach to sexual violence, whereby attention is given to only one or two aspects of aid and prevention, will inevitably mean that the rights of the rape victims are not fully respected, and may even increase the risk of other forms of sexual violence. Limited resources will require extremely efficient and effective use. In the Essex Human Rights Review, Marleen Bosmans recommends that coordinating mechanisms be set up to improve and enhance the use of resources in these interventions. “Building a national and local capacity to respond properly to the needs of rape victims and to support advocacy on the broader issue of sexual and gender-based violence will be paramount for the promotion and realization of gender equality in the post-conflict Democratic Republic of Congo.”115 This type of program will be very useful in building a durable Congolese infrastructure and should be given extensive consideration.

It is not under dispute that in accordance with human rights and humanitarian law standards, women and children should be given special protection from rape and sexual violence. Additionally, most experts agree that access to adequate aid is as essential as

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114 Ibid.
115 Ibid.
protection. Prevention plays an invaluable role in this process because a rights-based approach for women and children should not only treat victims, but should work to prevent the future victimization of women and children.\textsuperscript{116} In the DRC, victims of sexual violence are in serious need of medical and clinical aid, psychological and psychosocial support, legal aid, economic assistance, protection, and security. To fulfill their medical needs, there must be adequate quality treatment of their physical injuries, including specialized surgical interventions for physical trauma such as fistulas. Since abortion is illegal in the DRC, victims are also in serious need of emergency contraceptives and pregnancy care. High rates of sexually transmitted infections, including HIV/AIDS, means victims must have access to antibiotics, post-exposure prophylaxis, and voluntary counseling. As well, HIV testing and anti-retroviral treatments must be accessible to victims.\textsuperscript{117} These types of post-rape measures are not normally offered in the DRC, which puts victims at a greater risk of unwanted pregnancy and debilitating or life-threatening illness. In terms of psychosocial resources, the serious traumas suffered by victims create the additional need for long-term, accessible psychosocial support. Counselors and group therapy should be made available to victims in order to help them cope with their trauma. This type of treatment will also play a role in preparing victims for life outside the shelter or hospital where they are being treated. Further, since victims of sexual violence often face abandonment by their husbands and family, they will need economic support to enable them to survive without family and to provide for their children. Shelter is essential to this process, as women and children will need protection from the reprisals frequently endured by survivors of previous sexual assaults, especially those who report

\textsuperscript{116} Ibid., 11.
\textsuperscript{117} Ibid.
their attack.\textsuperscript{118} Ideally, economic aid will also be available to help victims travel to court and testify against their aggressors. These programs are desperately needed, but they are a great deal to demand of a country with such limited resources, which is precisely why international support is essential.

i. Increased Presence of Women in the Public Sphere

Currently, there is an obvious shortage of judges and prosecutors in the DRC. “The DRC, with its population of some 60 million, has around 1500 civil and military magistrates.”\textsuperscript{119} There are not nearly enough trained professionals to carry out the legal work that needs to be done.\textsuperscript{120} In addition to the inadequate number of legal professionals, there is a severe gender imbalance in the field, which results in a scarcity of women at all levels of the administration of justice.\textsuperscript{121} Gender disparity in this particular profession is not in any way isolated to the region, but the nature of sexual violence suggests that victims are likely to be more reluctant to speak of their experiences before male policemen, prosecutors and magistrates. The gender parity project \textit{l’Observatoire de la parité} surveyed 929 military and civil judges and prosecutors across all ten Congolese provinces, except Kinshasa. They found 34, or around 3.5\% of these professionals were women.\textsuperscript{122} The DRC GBSV delegation of the Swedish Foundation for

\begin{itemize}
\item \textsuperscript{118} Ibid., 12.
\item \textsuperscript{119} The Swedish Foundation for Human Rights, \textit{Justice, Impunity, and Sexual Violence in Eastern Democratic Republic of Congo}, para 35.
\item \textsuperscript{120} Ibid.
\item \textsuperscript{121} Ibid., para 36.
\item \textsuperscript{122} Global Rights, \textit{S.O.S. Justice – What justice is there for vulnerable groups in Eastern DRC?} August 2005, 7, http://www.globalrights.org/site/DocServer/SOS_ExecutiveSummary_ENG_FIN.pdf?docID=4123. According to a survey conducted by L’Observatoire de la Parité (www.observatoiredelaparite.org) of the provincial judiciaries, there are 929 civil and military prosecutors and judges outside the province of Kinshasa. In contrast, according to the government’s own figures, there were in 2005 a total of 2,053 judges (1,678 civil court judges and 375 military courts judges).
\end{itemize}
Human Rights reports that regional NGOs were of the opinion that “this male predominance in the judiciary contributed to the ‘banalisation’ of sexual violence and sexual offences generally as a ‘woman’s affair’ or again as a matter for the international community, if it wanted to interest itself in it.”\textsuperscript{123} As a result of this attitude, evidence of sexual violence is not being treated seriously.

The status of Congolese women can be improved in part by increasing their visibility in the transitional justice and peace-building processes. While training Congolese women to be prosecutors and judges should remain a long-term goal, the process of increased visibility can begin with basic training and education. This will enable them to secure positions at the administrative level of the justice system. For instance, upon the establishment of the mixed chamber, there will be many job positions to fill and potential employees will need training in the procedures of that court. Congolese women are viable candidates for this type of work and the chamber should take great pains to ensure that 50% of mixed chamber registry employees are women (whether the work is administrative, investigative, procedural or otherwise). Given that these are not decision-making positions, institutional bias due to their experience of the conflict is unlikely to be an issue.

\textbf{VII. CONCLUSION}

The conflict is ongoing in the DRC. Recent events have demonstrated that women and children are suffering the same terrors of sexual violence as they were 14 years ago when the First Congo War began. While the peace-building process must end the fighting,

particularly in the eastern provinces, aid and assistance are desperately needed for civilians who have no justice system to protect them. The widespread impunity for violations of human rights and international humanitarian law has led to the normalization of sexual violence in conflict. This epidemic of GBSV has made life in the DRC very difficult, especially for women and children. The UN Mapping Report recommends the creation of a mixed chamber domestic court to try cases of war crimes, crimes against humanity and genocide in accordance with the definition of these crimes and crimes of sexual violence found in the Rome Statute. This is highly significant, as years of impunity have eroded both the justice system and public faith in its ability to serve Congolese citizens. As an important starting point, there must be an end to impunity and a disposal of arcane, yet predominant ideas of rape as a women’s issue that is secondary to armed conflict. This is an essential step toward peace in the DRC, but the problems faced by civilian populations are too diverse and complex for a court to address adequately. Victims of sexual violence need access to medical and psychosocial care. This requires an organization like a “specialized sexual violence unit,” which can facilitate expertise in prosecution. Conceivably, a unit of this nature could also provide emergency contraceptives, pregnancy care, HIV/AIDS testing, antibiotics, post-exposure prophylaxis and surgical attention for serious injuries like fistulas. In terms of the psychological aid, the programs have to be long-term, as the trauma of these attacks can often only surface after several months or even years. There must also be shelter for women and children who are abandoned by their families after rape. Economic aid is badly needed. Each of these programs will improve the judicial goals set by the mixed

chamber by helping women to come forward and travel to courts to testify. Beyond all aid, there must be social work to change Congolese traditional views of women as subordinate to men. This can be improved on through the increased visibility of women in the public sphere. The process will not be easy, but by placing women in public positions, such as the mixed chamber registry, and by helping them to be healthy and to feel safe, there is a chance that the DRC of the future will see a peaceful end to widespread sexual violence and the perpetrators of these crimes brought to justice.

KEY ACRONYMS USED

- **ADF/NALU**  Allied Democratic Forces/National Army for the Liberation of Uganda (made up of former Ugandan rebel groups, the ADF/NALU appeared in the second half of the 80s after Yoweri Museveni seized power in Uganda)
- **AFDL**  Alliance des Forces Démocratiques pour la Libération du Congo
- **ALC**  Armée de Libération du Congo (armed wing of the MLC)
- **ALiR**  Armée de Libération du Rwanda (movement formed in 1998 comprising the ex-FAR/Interahamwe and armed Hutu elements)
- **ANC**  Armée Nationale Congolaise (armed wing of the RCD-Goma)
- **ANR**  Agence Nationale de Renseignements
- **APC**  Armée du Peuple Congolais (armed wing of the RCD-ML)
- **APR**  Armée Patriotique Rwandaise (national army of Rwanda from 1994 to 2002)
- **CAAFAG**  Children Associated with Armed Forces and Armed Groups (male CAAFAGs are commonly referred to as *Kadogo*, “little ones” in DRC colloquial Swahili.)
- **CNDD**  Burundian Hutu Movement
- **FAC**  Forces Armées Congolaises (national army of the DRC from June 1997)
- **FAR**  National army of Rwanda before July 1994.
- **FAZ**  Forces Armées Zaïroises (national army of Zaire)
- **FDD**  Armed wing of CNDD
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