Abstract: This report evaluates reparations awarded by courts in the DRC to survivors of sexual violence, and the extent to which these reparations are being implemented. First, the report introduces the mobile court system and other judicial institutions that address sexual violence, specifically in Eastern DRC. Second, the report examines barriers to the implementation of reparations awarded by these courts. Third, the report offers recommendations to the international community to help ensure the payment of reparations to victims in the DRC and strengthen their access to justice.

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Barriers to Justice

This report was written by students at Columbia University’s School of International and Public Affairs (SIPA) in May 2013 as part of a SIPA Capstone Workshop, in connection with Physicians for Human Rights’ Program on Sexual Violence in Conflict Zones. The majority of information in the report is based on interviews conducted in the Democratic Republic of Congo between March 30 and April 6, 2013. For security reasons all names have been redacted and no identifying information is included. For further information, please email Delaney Simon at delaneysimon@gmail.com.

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1. Executive Summary

The war in the Democratic Republic of Congo (DRC) has been deemed “the most deadly war ever documented in Africa”\(^1\) and the deadliest conflict since World War II.\(^2\) Since it began in 1998, the ongoing conflict has seen more than five million casualties. With armed actors targeting civilians and using rape as a weapon of war, women and children have been disproportionately and uniquely affected by the conflict. Victims of rape often suffer severe physical and psychological harm, as well as pregnancies and stigma.

In the effort to fight impunity for rape and other sexual crimes, the international community has funded “mobile courts” – district courthouses that travel to remote regions of the DRC’s eastern provinces to provide judicial recourse for victims. Guilty verdicts can result in both prison sentences for the perpetrators and reparations for the victims. However, payment of these reparations has proven to be problematic.

This report evaluates reparations awarded by courts in the DRC to survivors of sexual violence and the extent to which they are being implemented. First, the report introduces the mobile court system and other judicial institutions that address sexual violence in Eastern DRC. Second, the report examines barriers to the implementation of reparations awarded by these courts. Third, the report offers recommendations for the international community to help promote the payment of reparations to victims and reinforce the justice system in the DRC.

Interviews were conducted with both international and Congolese stakeholders including judges, lawyers, military officials, officials at MONUSCO, UNDP, and OHCHR, and local NGO workers. The authors of this paper also examined individual judgments and outcomes of courts operating in the DRC. To further facilitate analysis of the judgments, the authors created a matrix that assesses a range of data points including the reparation type and amount, the length of prison sentences for the accused, and the location of the court. Incorporating the various perspectives on this complex situation, the report seeks to inform human rights advocates on potential ways to promote justice for victims of rape, from access to a trial to ensuring the payment of reparation awards.

Victims often resort to traditional justice mechanisms rather than pursue their claims in court. In such cases, community leaders often arbitrate over rape cases and require perpetrators to give in-kind reparations such as cows or goats. They may also require the victim to marry the perpetrator in order to repair the “lost honor” of the family. Bribes and fees paid to police ensure that officials sometimes encourage victims to take more traditional channels rather than initiating a legal proceeding. Such
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traditional mechanisms were found to undermine the rule of law, allowing perpetrators to evade criminal prosecution.

Infrastructure challenges present major obstacles to the legal process. Poor roads and transport facilities, poor communication between police and courthouses, and a lack of sufficient security to protect victims' safety throughout the process all pose major problems for both mobile and stationary courts. Even when victims do manage to successfully take a case to court, reparations awarded are not paid. Local stakeholders highlighted many factors hindering implementation including pervasive poverty, excessive complexity of the post trial process, and the lack of political will on the part the Congolese government. The latter is particularly relevant to cases where the government was found guilty in solidum with the perpetrators in the Congolese Army.

One major barrier to the implementation of reparations is the discrepancy between the amounts victims of sexual violence are awarded, and what perpetrators can actually pay. Reparations can range anywhere from US$300 to millions of dollars, and the convicted often has little or no money. In civil cases, there are often no mechanisms to determine whether the perpetrator has money or property to be seized. Some stakeholders suggested a reparations program where perpetrators pay victims the wages they earn while incarcerated, but such programs would only account for a fraction of the sum of reparations awarded.

Victims also face major administrative barriers. International donors do not fund the judicial system beyond the trial phase, and lawyers have no incentive to pursue reparations. Victims are forced to navigate a system that is extremely complicated even for judicial experts. Procedural difficulties are compounded by numerous fees, including US$15 for the initial copy of the judgment, a processing fee at the ministry level of 6% of the total reparation, and additional travel costs for the victim. Even though victims can claim indigence and have these fees waived, this requires additional – and prohibitively complex – paperwork.

In cases where the government was found responsible in solidum with the perpetrator, the state is responsible for paying reparations. Despite the fact that the state has never paid any reparations to victims of sexual violence, a number of stakeholders felt that efforts by the international community to pay the state’s dues could lead to further erosion of the Congolese state’s tenuous links to its people. Some suggested that international organizations could partly pay reparations until the Congolese government is capable of paying in full. For instance, if a victim is awarded US$1,000, NGOs could provide US$100 to ease the hardship of the victim while they wait for the state to pay the remaining reparation. This monetary compensation may encourage more victims to come forward, allowing for additional cases to be
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addressed, but simultaneously risks placing too heavy of a burden on international donors, as victims’ demands may exceed organizational capacity. There is also a fear of reparations becoming exorbitant, or fraudulent cases being filed. It was suggested that the international community put pressure on the Congolese government to pay reparations, as the state is in many ways more beholden to international interests than it is to Congolese citizens.

In the end, after victims have undergone a complex process and risked shame, humiliation and fear of reprisals, they ultimately receive nothing. This causes re-victimization and discourages other victims from filing similar cases. At the same time, although limited prison security in the DRC often allows perpetrators to escape, the arrest, conviction and detention of their attackers provide justice for some victims. Seeing perpetrators receive prison sentences gives victims a sense of security and vindication, while signaling to the community that impunity will no longer be tolerated.

Considering these barriers, researchers offer the following recommendations:

1. Fund lawyers and advocates to aid victims in the post-trial phase
2. Provide extra-legal support to victims
3. Create a reparations fund for victims
4. Fund centers for victims
5. Offer logistical support to legal actors
6. Reform the security sector
7. Strengthen protection and security for victims
8. Alter military rank requirements for judges
9. Exempt victims of sexual violence from court fees

In conclusion, it is crucial that reparations, when awarded, are actually delivered to victims. Working to ensure that reparations are paid will strengthen the justice system and begin to repair the lives of victims who have suffered immensely as a result of crimes they have suffered.
2. Methodology

This report is based on field interviews conducted in Bukavu, DRC between March 30, 2013 and April 6, 2013. Researchers interviewed key stakeholders, including both local and international NGOs, United Nations officials, lawyers, and judges, in addition to experts in New York and Washington D.C. The conclusions in this report are based on discussions with these stakeholders and their perceptions of the reparations process, an analysis of multiple court judgments from sexual violence cases, as well as academic and practitioner publications. Throughout this process, researchers tailored their questions toward understanding the myriad obstacles that victims face in securing reparations. Our primary questions were: How are reparations defined? How are they implemented? Which reparations work best? What are the mechanisms that help or hinder the process?

Due to the sensitive nature of this topic, the authors adopted strict standards of practice for research throughout the planning, data acquisition, analysis, and writing phases. In addition to acquiring IRB certification, researchers adhered to World Health Organization (WHO) guidelines for ethical and safe research of sexual violence in emergencies. Accordingly, they took security precautions to protect sources and partners on the ground, such as de-identifying data, continually assessing the risks and benefits research would have on researchers and subjects, and maintaining strict standards of confidentiality. Before conducting interviews, researchers transmitted consent forms to each subject, ensuring that respondents were aware of the purpose and content of the data collection, the personal risks and benefits involved in participating, and their right to cease participation at any point during the process. Care was taken to ensure the confidentiality of each interview. Finally, researchers did not conduct interviews with victims after determining that the risks of performing these interviews were potentially greater than their value.

The authors of this paper also examined the individual judgments delivered by courts operating in the DRC. To further facilitate analysis of the judgments, the authors created a matrix that assesses a range of data points that range from the reparation type and amount, or the length of prison sentences for the accused, to the location of the court. The process of gathering judgments involved engaging with international institutions and local nonprofits operating in the DRC as well as legal experts, health professionals, and women’s rights activists. Researchers reached out to a number of institutions including the American Bar Association (ABA), Doctors Without Borders (Médecins Sans Frontières), Lawyers Without Borders (Avocats Sans Frontières), Human Rights Watch, Women for Women International, and Synergy of Women for Victims of Sexual Violence (Synergie des Femmes Pour Les Victimes des Violences Sexuelles).
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3. Limitations

Despite the wealth of information derived from desk research and from interviews with a wide variety of critical stakeholders, researchers faced the following limitations. First, due to budget and time constraints, the research trip was conducted over the course of one week, restricting the total number of stakeholders interviewed. Additionally, security concerns limited the location of interviews to Bukavu, South Kivu. As noted above, survivors of sexual violence were not interviewed. Although interviews with victims would have been helpful, they were not deemed critical enough to the research to merit the associated physical and psychological risks. Furthermore due to the politically sensitive nature of the subject, most of the interviews were conducted with an agreement to ensure the interviewees’ anonymity. As a result, much of the firsthand information in the report is referenced without identifying information. Finally, due to limitations in acquiring full texts of mobile court judgments, researchers were unable to obtain a random and representative sample for the matrix of judgments. The matrix included in Appendix I provides a sample that should not be regarded as illustrative of all mobile court cases dealing with sexual violence. However, actors in the field shared their own data, which were culled from various organizations in the field and can be found in Appendix II, Appendix III, and Appendix IV.

4. Introduction

The war in the Democratic Republic of Congo (DRC) has been deemed “the most deadly war ever documented in Africa,”7 and the deadliest conflict since World War II.8 With armed actors targeting civilians and using rape as a weapon of war, activists have also named it “the worst place in the world to be a woman.”9 International and local organizations including the United Nations Organization Stabilization Mission in the DRC (MONUSCO), the Open Society Initiative, the American Bar Association Rule of Law Initiative (ABA ROLI), HEAL Africa, Panzi hospital, and others, run programs to help guide sexual violence survivors through the legal system to obtain redress for the crimes they suffered. Yet despite these efforts, impunity for sexual violence remains the norm in the DRC and even those victims who are successfully awarded reparations by a court rarely receive compensation for the abuse they endured.

This report evaluates reparations awarded by courts in the DRC to survivors of sexual violence, and the extent to which these reparations are being implemented. First, the report introduces the mobile court system and other judicial institutions that address sexual violence, specifically in Eastern DRC. Second, the report examines barriers to the implementation of reparations awarded by these courts. Third, the report offers recommendations to the international community to help ensure the payment of reparations to victims in the DRC and strengthen their access to justice.
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i. Sexual violence in the DRC

The United Nations Office of the High Commissioner for Human Rights (OHCHR) estimates that over 200,000 women have been raped during the last twelve years of the conflict in the DRC.\textsuperscript{10} Armed actors and civilians alike commit crimes of sexual violence. The Congolese armed forces (Forces Armées de la République Démocratique du Congo (FARDC)), is one of the main perpetrators of this violence, but rebel armies and non-affiliated individuals commit these crimes as well. Even UN Peacekeepers have raped and assaulted Congolese women.\textsuperscript{11} This is complicated by the fact that civilians are increasingly committing acts of sexual violence, with an estimated two thirds of cases perpetrated by noncombatants in parts of Eastern DRC.\textsuperscript{12}

Armed actors use sexual violence strategically to advance military objectives. They use rape to clear areas, to torture individuals, or to destroy groups or families by publicly raping victims. Family members are forced to either witness the rape of a loved one, or commit acts of sexual violence themselves. Sexual violence is often brutal; women have reported gang rapes, violent rape, and the insertion of objects into their vaginas. Victims of sexual violence are often left with permanent physical trauma, sexually transmitted diseases such as HIV, and physical disabilities including fistula, chronic pain, infertility, chronic incontinence and severe infection; conditions that outlast conflict. The emotional and psychological effects can be equally severe and long lasting.

The social stigma accompanying female victims of sexual violence is a cause of revictimization. Stigma is often so strong that women are likely to be shunned from their communities, rejected by their husbands, and cut off from social support. Families often reject their daughters after rape, a reality particularly horrific for young girls who depend on their families for care. Some women conceive children as a result of rape and bear the economic, social and emotional burdens of childcare. Furthermore, these women are rarely able to access justice or protection to prevent future sexual violence. As a report by OHCHR acknowledges, in the DRC survivors are victimized several times over: “Once when the crime is committed, again when they are rejected by their family and community, and yet again because of the near-total impunity enjoyed by the perpetrators of these crimes.”\textsuperscript{13}

A distinct gender dimension further characterizes sexual violence in the DRC. When sexual violence is committed against men, rape is used to “feminize” or “unman” the victim. Furthermore, sexual violence often targets women’s sexuality and reproductive capacities, sexual and reproductive parts, or roles as caregivers. Women’s social, economic and cultural vulnerability exacerbates the risks and effects of sexual violence. Women are more likely to experience rape than men, and are exposed to special and intense forms of shame and exclusion afterward. Victims’ ability to marry or create social capital is
Barriers to Justice

limited, adding to their economic marginalization. Nonetheless, they are expected to bear the bulk of childcare responsibilities. In this way, sexual violence exacerabates women’s already disadvantaged social positions.

**ii. The Conflict and its influence on Sexual Violence**

The nature and prevalence of sexual violence in the DRC is directly related to the longstanding-armed conflict. Indeed, as one stakeholder noted, the insecurity resulting from conflict as well as the related absence of the rule of law, justice, and policing, enables noncombatants to commit violent crimes with impunity. As such, the conflict provides space for perpetrators to commit acts of sexual violence without repercussion.

The transnational nature of the conflict adds another dimension to sexual violence in the DRC. One legal expert noted that many perpetrators of sexual violence are members of armed groups (such as the Democratic Forces for the Liberation of Rwanda (FDLR) and Interhamwe) who came to the DRC as a result of the Rwandan genocide and are nationals of neighboring states. This, the expert argued, makes the Congolese government, the international community, and foreign countries whose citizens are committing rape (notably Rwanda) mutually responsible for these crimes and for holding their citizens accountable, in accordance with international legal standards.\(^\text{14}\)

**5. The Laws and Courts of the DRC**

**i. Background**

The current constitution was adopted in 2006 under President Joseph Kabila. The DRC uses a Belgian-based civil law code in which criminal matters fall under the penal code (*code pénal*). In Belgian and French civil law, unlike British common law, a victim of a crime may simultaneously be a plaintiff in a civil suit eligible for compensation for damages incurred, and a victim in a criminal case. Furthermore, judges, not juries, deliver verdicts in which they address the criminal element of cases by sentencing the convicted to serve time in prison, while the civil matter is addressed by awarding reparations for damages and interests.

**ii. Applicable Law**

When the DRC adopted a new constitution in 2006, the Ministry of Justice announced a “roadmap to fighting impunity against sexual violence,”\(^\text{15}\) designed to reform the justice sector with two areas of priority: one, improved access to justice, and two, a fight against impunity. In the context of these changes, the DRC modified its criminal code and criminal procedural code by adopting laws 006/018 and
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006/019, respectively. While Article 15 of the Constitution of 2006 establishes the principle of state opposition to sexual violence, laws 006/018 and 006/019 define what constitutes the crimes of rape, forced prostitution, and indecent assault. These laws also increased the age of sexual consent to 18 years, and prescribed a range of prison sentences for those convicted of sexual crimes, and a victim’s right to medical and psychological treatment. In cases involving a minor, for example, the minimum prison sentence is eight years.

The Rome Statute of the International Criminal Court (ICC) defines sexual violence in the context of crimes against humanity or war crimes. The DRC is a signatory to the Rome Statute and a monist state, meaning international law is automatically applied in the country’s domestic legal system; therefore, the statute is cited in cases where defendants are alleged to have committed international crimes. Only military courts have jurisdiction over cases in which the defendant has been accused of committing one of the three crimes that the Rome Statute qualifies as international crimes: crimes against humanity, war crimes, and genocide.
Barriers to Justice

Table 1: Hierarchy of Courts in the DRC

<table>
<thead>
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<th>Cour de Cassation</th>
<th>Cour Constitutionnelle*</th>
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<td>Parquet près les Tribunaux</td>
<td>La Cour Supreme de Justice</td>
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* According to Article 161 of the Constitution, the Constitutional Court may also hear appeals from the Conseil d'Etat and the Cour de Cassation when they relate to jurisdictional issues.

Numbers indicate the amount of each kind of court throughout the DRC.

iii. Civilian Courts

The distinction between civilian and military courts is central to the DRC’s criminal procedure and legal system. Civilian courts try cases in which the defendant did not commit a crime in the exercise of his duty, as a government employee, and has not been charged with crimes against humanity or war crimes. Actors involved in the Congolese legal system frequently refer to civil sexual violence cases as “common rape” in order to distinguish from cases that fall under military jurisdiction. Most cases in the DRC involving sexual violence fit into this category. For example, out of 6,554 cases filed involving charges of sexual violence between 2010-11 in the provinces of North Kivu, South Kivu, and Ituri, 6,089 (93%) were civilian court cases.21 Either party to a case may appeal a decision by sending the case to a court of appeals, where it can be further appealed to the Supreme Court (la Cour Supreme de Justice) in Kinshasa.

iv. Military Courts and Tribunals

If the defendant is an employee of the state, for example a soldier or a policeman, and he is alleged to have committed a crime while on duty, he is tried under military criminal law. If the defendant is alleged to have committed an international crime defined under the Rome Statute then his case likewise falls under the jurisdiction of military courts, regardless of his occupation. In this way, military courts hear all
international crimes as well as civil crimes committed within the context of war. However, under the jurisdiction of military tribunals, the defendant is tried under the same laws as civilian courts (laws 006/018 and 006/019), unless charged with an international crime.

Either party to a case may appeal a decision to a military court of appeals. However, unlike civilian courts, judges in military courts are FARDC officers. The military penal code stipulates that the presiding judge must be of equal or superior rank to the defendant. As such, the military judiciary is divided into two bodies: le tribunal (when the defendant is an officier subalterne, meaning he has the ranking of captain or below) and la cour (when the defendant is an officier supérieur and his ranking is above captain).

Prison sentences and reparations awarded by military tribunals tend to be significantly higher in cases where sexual violence is categorized as a crime against humanity or a war crime. Though such cases are rare, when they do occur, life sentences are common, and reparations can amount to millions of dollars.

v. Mobile Courts (Audiences Foraines)

The DRC is a vast country covering 900,000 square miles divided into eleven provinces, which are further divided into administrative units called territories. The law mandates that a Court for Peace (un Tribunal de Paix) be located in each territory, and a provincial District Court (le Tribunal de Grande Instance) in each major provincial city. However, these territorial Courts for Peace may only try criminal cases in which the maximum sentence is five years. This limitation means that sexual violence cases fall under the jurisdiction of provincial District Courts, since sentencing guidelines hold a mandatory minimum of five years. An exception to this rule is for indecent assault (atteinte à la pudeur), a distinct category of sexual crimes. For military jurisdiction, sexual violence cases fall under Military Garrison Courts (le Tribunal Militaire de Garnison), which are likewise located in the provincial capital. As a result, access to justice is extremely limited for victims in remote areas. For example, if a survivor reported to the police that he or she was raped in a village in the Shabunda territory, that individual would have to travel hundreds of kilometers, often by foot, to Bukavu, where South Kivu’s provincial District Court is based. In order to provide access to justice to the periphery, the Constitution of 2006, like the constitution of 1960 before it, allows for district civilian and military courts to operate as mobile circuit courts (audiences foraines). However, there is nothing that distinguishes a court in the provincial capital from a mobile court, other than its physical location.

Moving the courts to a peripheral location is a costly affair, which involves transporting an entire personnel infrastructure. Participants interviewed observed that the government rarely covers the salaries
and costs involved with stationary courts, let alone paying for the transport and logistical costs involved in taking courts to remote areas. In light of this obstacle, the international community has played an active role in providing financial and logistical support to allow the courts to operate as mobile courts (*en foraine*). A 2012 study by Avocats Sans Frontières (ASF) found that, for both civilian and military jurisdictions, the presence of mobile courts shortened the time for a case to reach a decision by almost three months.

*Table 2: Comparing Features of Military, Civilian and Mobile Courts*

<table>
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<th>Military Court</th>
<th>Civilian Court</th>
<th>Mobile Court</th>
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<tr>
<td><strong>Defendant</strong></td>
<td>Defendant is an employee of the state (such as a soldier or a policeman) and he is alleged to have committed a crime while on duty. Defendant’s alleged crime is a war crime, crime against humanity, or genocide as defined by the Rome statute</td>
<td>Defendant did not commit a crime in the exercise of his duty as a government employee, and has not been charged with crimes against humanity or war crimes</td>
<td>The same as a military or civil court, only physically located outside of a provincial capital from a mobile court</td>
</tr>
<tr>
<td><strong>Case Type</strong></td>
<td>International cases and civil cases committed within the context of war</td>
<td>Civil cases committed by non-combatants</td>
<td></td>
</tr>
<tr>
<td><strong>Judge</strong></td>
<td>Judges are FARDC officers and are of equal or superior rank to the defendant</td>
<td>Judges are not members of the armed forces</td>
<td></td>
</tr>
<tr>
<td><strong>Legal Jurisdiction</strong></td>
<td>Under the jurisdiction of &quot;le Tribunal Militaire de Garnison&quot; (TMG) or &quot;military garrison courts&quot;. Each of the 26 provincial capitals (plus Kinshasa) has a TMG.</td>
<td>Under the jurisdiction of &quot;le Tribunal de Grande Instance&quot; (TGI) or &quot;provincial District Courts&quot;. The capital of each of each province has a TGI (Sud-Kivu's is Bukavu, Nord-Kivu is Goma, etc). By the nature of their severity, rape cases must be tried in TGI's.</td>
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vi. Awarding Reparations

Congolese law (Article 258 of the Civil Code, Book III) establishes that if an individual causes damage to another individual, the former is liable to repair the harm done. Regarding sexual violence, the law explicitly requires that the prosecutor or presiding judge summon a psychologist and a doctor in order to evaluate psychological trauma and physical harm incurred from the crime. In order to receive compensation, the survivor must demonstrate that the alleged crimes occurred and that any damages suffered resulted from the act. The underlying concept is that the compensation should repair the damage inflicted to the fullest extent possible, and, in the event of a conviction, it is the task of the presiding judge to determine the amount of reparation awarded to the victim.

In matters of tort, the judge takes into consideration physical damage incurred, moral damage, meaning non-pecuniary damage such as harm to honor or reputation, and material damage. The judge also considers the state of the victim. For example, the plaintiff might submit the following facts to the judge: she is pregnant from the rape, lost her virginity, is incapacitated to the point of being unable to work, suffered emotional and psychological trauma, or has been infected with a sexually transmitted disease. The age of the victim is also given considerable weight. A 2012 ASF study found a strong negative correlation between age and amount of money awarded.

The amount awarded to victims of sexual violence in general is inconsistent, and there does not appear to be a consensus among judges in determining appropriate compensation given that there is no previously agreed upon range of appropriate amounts. However, the above-mentioned ASF study notes geographically related trends in the amounts of reparations awarded, with some provinces awarding higher reparations on average, relative to other provinces. If victims are not satisfied with the reparation amount, they may ask a superior judge to augment the award; for example, if they do not think the monetary reparation they are awarded is high enough. To do so, victims must appeal to a superior judge who then determines whether or not to increase the amount awarded to the victim.

There is an important exception to the personal liability clause of Article 258 of the Congolese Civil Code discussed here: if the judge rules that the convicted was engaged in a principal-agent arrangement with the Congolese state and that the convicted committed the crime in fulfillment of his functions as an agent of the Congolese state, then the state is condemned in solidum. In practical terms, this means that if the defendant is an employee of the state (e.g. a soldier or a policeman) and is alleged to have committed a crime while on duty, then the Congolese state is responsible for paying any reparations awarded, given that the perpetrator does not have the means to pay. In 2009 a judge condemned the Congolese state in solidum with a group of Rwandan rebels from the Democratic Forces for the Liberation of Rwanda.
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(FDLR) on the grounds that, under Article 52 of the Constitution, the state is responsible for the peace and well being of all Congolese people. However, research indicates that this precedent is sometimes ignored. A 2012 legal study published by UNDP in Bukavu describes a case in which a military judge exonerated the Congolese state because, though the convicted was a soldier, he was not on active duty.

**vii. Enforcement of Decisions**

Even when a judge rules in favor of a survivor and awards reparations for damages, the process is far from over. Article 109 of the criminal procedural code specifies that the Public Minister is responsible for enforcing prison sentences, while the plaintiff must pursue enforcement of the reparation. An individual awarded reparations does the latter by soliciting the service of the Congolese state to recover the reparation, and then has up to 30 years to collect. However, to date, no reparations have been received.

There are many reasons for this abysmal record, and this report will detail the obstacles survivors face in actually obtaining reparations granted in the “Post-Trial” section of the report. The most immediate impediments are the fees victims must pay to initiate the claims process. Another obvious problem is that in cases where the accused are convicted but insolvent, the victim has no chance for redress despite having suffered harms. Unfortunately, indigence characterizes the vast majority of individuals in the DRC. The fact that reparations granted are never paid has a serious deterrent effect not only on survivors, but also on other victims; who, without any hope of receiving compensation, believe that the limited benefits of bringing a case to trial are not worth the associated social stigma and emotional suffering.

**viii. Location of Judgments**

There is no central repository for judgments. Records of these cases are theoretically stored in archives in courthouses and tribunals, by the Public Prosecutor’s Office, and by prison registries. Other state bodies, such as the State Registry on the Role of Children in Conflict, may also hold records of certain judgments. International organizations sometimes hold copies of judgments, most often when they have assisted victims in a particular case. One researcher interviewed reported that judgments could only be obtained after payment of a significant fee. Others noted that poor access to judgments is a serious barrier to NGOs’ attempts to improve access to justice. The majority of analysis on judgments has been conducted by international organizations. UNFPA currently gathers all statistical data on judgments from other international organizations such as UNDP.
ix. Results

Cases from the eastern provinces of the DRC report the highest levels of sexual violence. Out of 6,554 cases filed involving charges of sexual violence between 2010-11 in North Kivu, South Kivu, and Ituri, 652 resulted in a decision; of which 392 (60%) received a conviction, and 206 (32%) led to an acquittal. An ASF study, which analyzes 209 decisions across the entire country, found that 73% of cases resulted in a conviction, 20% in an acquittal, and 7% in a dismissal. Of the 209 decisions cited by ASF, victims filed as a civil party in only 65% of the cases, and the amount of reparations ranged from US$200-US$5,000.

Very few cases that are convicted in court are directly due to the conflict. These cases tend to include gross crimes where it is difficult for victims to identify the assailants. Mass crimes related to the conflict are usually tried with large numbers of victims filing jointly, where the victims included as plaintiffs to the case are not required to identify their specific attacker. As long as the defendant was accused by someone else, is found to have been in the location of a known attack, and is proved to be affiliated to the accused party to the conflict, it is possible to convict without full identification of the perpetrator by all victims. Alternatively, cases not related to the conflict tend to involve neighbors, policemen, teachers and other easily recognizable community members, considerably reducing barriers to prosecution.
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Table 3: Law in Action: An Analysis of Two Sexual Violence Cases

<table>
<thead>
<tr>
<th>RMP No. 0793/BMN/09</th>
<th>RMP No. 0567/BMN/08</th>
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<td>The Military Garrison Court of Uvira, in session as a mobile court in the city of Kamituga in the Mwenga Territory, delivered a decision in a sexual violence case on February 4, 2010. The victim was a fourteen year-old girl and the defendant was a commander in the FARDC. The victim’s mother filed as the civil party eligible for damages owing to the fact that her daughter was a minor. Four parties were present for this case: the civil party, the prosecutor, the defendant, and the Congolese state. The civil party asked for the defendant to be convicted of rape, to sentence him according to the demands of the prosecutor, to make the victim’s mother the beneficiary of damages, for the Congolese state to pay in solidum with the defendant US$2,500 in damages, as well as court fees. The prosecutor requested a 20-year sentence, a fine, and a demotion in the military; the defense asked for an acquittal based on temporary insanity; and counsel for the Congolese state rejected that they be condemned in solidum with the defendant. The court further found that the victim’s mother was humiliated and dishonored, and noted that, because the victim was impregnated as a result of the rape, “much psychological help is needed for her to raise her morale.” When the defendant learned about the pregnancy, he allegedly begged the victim’s uncle not to notify his superiors in the FARDC. Based on these facts, the court ruled: “The defendant, in solidum with the Congolese State, is civilly responsible to allot the civil party…damages and interests for the harm suffered.” The court awarded the plaintiff US$1,500 to be paid in Congolese francs.</td>
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<tr>
<td>The Military Garrison Court of Uvira, in session as a mobile court, delivered a decision on sexual violence in Sange in the Uvira Territory on April 21, 2009. A 41 year-old woman married to a lieutenant in the FARDC was both the victim and the civil party. The defendant was a sergeant in the FARDC alleged to have committed the rape in Luvungi, Uvira Territory where he was garrisoned. The civil party requested US$2,000 in reparations, payment of legal fees, and for the court to adhere to the prosecutor’s sentencing recommendation. The defense asked for an acquittal based on lack of evidence. Included in the ruling: “The said act caused a damage that must be repaired fairly. In fact, the woman…mother of five children, was humiliated and dishonored throughout the city of Luvungi by a sergeant who sexually abused her.” The court found the defendant guilty and awarded the plaintiff US$1,000 in damages. As in case RMP No. 0793/BMN/09, this amount is one thousand dollars less than requested. Furthermore, the judgment bears no mention of the Congolese state and there is no counsel representing the government. It is unclear whether this is because the plaintiff never filed a claim against the Congolese state, or because the court decided that there was not a strong enough link to satisfy the agent-employer requirement for in solidum liability.</td>
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6. Traditional Mechanisms of Justice

Communities, especially in rural areas with limited access to justice, sometimes address sexual violence through traditional justice mechanisms or local custom (coutume du coin). Community leaders, or the families of victims, arbitrate between perpetrators and victims over rape cases. In these arrangements, perpetrator give the victim, or her family, money or in kind reparations. For example, several interviewees described a common practice wherein the perpetrator is required to give a cow or a goat to the family of the victim. In other cases, the victim is forced to marry her perpetrator. These arrangements are meant to repay the loss of a family’s honor. The reparation is meant to represent the bride price a woman’s family would have received if she had not been raped, and thus maintained her
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honor and the ability to marry. Police often persuade women and girls to make such arrangements, occasionally mediating the process and receiving a fee.

Despite their intended mitigating effect, these mechanisms are problematic. All stakeholders interviewed agreed that traditional justice is detrimental to both the victim and to the rule of law. First, it is most often the victim’s family, and not the victim, that receives the reparation. Second, forced marriage is but a further punishment for victims, and may subject them to a life of permanent abuse. Third, traditional justice mechanisms ultimately undermine the rule of law by ignoring the fact that the perpetrator has committed a criminal offense, and by fostering corruption when police officers receive a portion of the funds for helping facilitate the negotiations. Stakeholders argued that sexual violence is not a matter of family honor, as traditional mechanisms suggest, but rather a grave criminal offense that civilian reparation cannot mitigate. Victims and their families might also receive threats from perpetrators, who are often from the military or the police force. Furthermore, victims only have access to medical and psychological services if their families bring them to a hospital or NGO, or if they happen to learn of programs offered by organizations in the field.

7. General Typology of Reparations

According to international law, reparations theoretically provide justice to victims and contribute to the construction of justice and peace for a society transitioning out of conflict. In their implementation they can serve as an apology to victims, as a public acknowledgement of crimes, as an acknowledgement of state responsibility for such violations, as a way to subvert the structures of subordination that might have led to the violations of rights in the first place, or as services to victims to mitigate impacts of abuse. International reparations scholars and practitioners in the field of transitional justice and post-conflict reconciliation note that reparations can take a variety of forms: they can be financial or pecuniary, in kind, equivalent, symbolic or ritual, and finally, transformative (see Appendix 6 for an illustrative chart). Ideally, the amount and type of reparation is determined by the needs of the victim. When instituting a reparations program, it is important to consider how to maintain a balance between retributive justice and restorative justice in order to promote durable peace and justice.

The design of the reparations system in the DRC is unique. In other settings, reparations have been awarded through specially allocated tribunals or courts. In the case of Rwanda, for instance, the United Nations Security Council created the International Criminal Tribunal for Rwanda. This and other similarly designed tribunals are meant to strengthen the national rule of law through proxy. In these cases, reparations take a variety of forms, from apologies to monetary compensation. Reparations in the DRC, however, are awarded through the country’s permanent court system. As a result, the types of
reparations awarded are always monetary or punitive.\textsuperscript{65} Victims in the DRC usually are not aware that apologies and non-monetary compensation are available to them as reparation, nor is it common for actors in the field to institute such options.\textsuperscript{66} This could be due to the fact that the reparations system is housed in normal legal proceedings, which limits the type of reparations awarded by judges.

According to stakeholders in the field, many victims consider the arrest, conviction and detention of their attackers to be the most significant reparation. It is often extremely important for victims to see perpetrators, convicted of rape, mutilation, torture or pillage, sentenced to five or ten years in prison.\textsuperscript{67} Convictions also signal to the community that impunity will not be tolerated, allowing for the reestablishment of the social fabric and the rule of law.

\textbf{8. Pre-trial Phase}

There are several avenues through which victims might gain access to legal assistance. These can be summarized into five areas: law enforcement, local community members, the international community, nongovernmental organizations and medical clinics. Victims often learn of assistance through programs instituted by international organizations and come forward on their own. This avenue is well established, and includes legal clinics and victim centers that reach out to victims to connect them with the resources provided by the contributions of international donors, who fund a myriad of programs. For example, ABA currently runs a project that provides cell phones to people in remote parts of eastern DRC.\textsuperscript{68} Whenever there is an incident, individuals can text one of the ABA main offices in Goma to alert officials. To illustrate, ABA might receive a text message saying “there has been a rape in village X.” At which point they would notify local authorities to take immediate action.\textsuperscript{69} This is currently in an experimental phase, but aims to facilitate access to justice for the peripheral areas of the DRC.\textsuperscript{70} Victims also learn of the available legal options from friends or family, however the team did not discover specific data on the number of victims who reach the legal system through informal networks.

Mobile medical and legal clinics refer victims to organizations working in partnership with the justice system. One organization expressed concern that victims accessing medical services first, rather than first accessing the police/justice system and being referred on to medical services, have a lower likelihood of accessing the justice system overall.\textsuperscript{71} Many victims do not seek help or assistance at all due to shame, stigma, and lack of access to services to do so.

\textit{i. Evidence Gathering}

There are often serious challenges to evidence gathering in cases of sexual violence in the DRC. Victims may not be able to identify their perpetrators, especially after mass rapes by armed groups where victims
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are often unable to determine whether their attackers are affiliated with the Congolese military, rebel
groups or international armed groups. In the wake of an attack, investigators may face difficulties in
immediately reaching the area due to security concerns. Investigators must first organize a security
assessment to ensure their own safety. This takes time and, as a result, investigators often begin to gather
evidence from a crime scene after most of the evidence has either disappeared or been destroyed. Even
when it is possible to ascertain the perpetrator’s identity and arrange for his arrest, the logistical problems
of transferring him from either the countryside to the tribunal, or from the main prison, may be impossible
due to transportation, fuel, and other financial constraints.

**ii. Access to Medical Care**

If sexual violence occurs, both medical and psychological evaluations are needed to provide proof of the
crime and losses for the victim. These evaluations are required in order to bring the case to trial, to
successfully prosecute the case, and for the judge to determine the reparation amount. The law mandates
that victims have the right to receive a free medical certificate verifying that they were raped. However,
victims are often not given these certifications. Doctors often lack incentive to supply these certificates,
as they do not receive payment for issuing them. Some NGOs, like Physicians for Human Rights (PHR), have taken steps to mitigate this barrier. PHR has worked to facilitate victim’s access to these
certificates by standardizing forms that doctors fill out after a survivor’s visit to a clinic or hospital. This
allows for a standardization of evidence that could be admissible in court, increasing the likelihood that
the victim will have a strong enough case to ensure prosecution.

**iii. Access to Legal Assistance**

International organizations have set up legal clinics (*cliniques juridiques*), which are information offices
that provide victims with lawyers, legal information, and in some cases counseling from an in-house
psychologist. According to one researcher, legal aide clinics recruit for non-conflict related cases, while
international organizations like ABA recruit for cases related to the conflict. Legal assistance during this
process is crucial, as most victims are not able to navigate the political system on their own.

The international community also provides sensitization trainings to inform the public on how to access
legal remedies, the role of justice, and women’s rights. They focus on community leaders, children’s
groups, and women’s groups. Stakeholders described sensitization campaigns in areas with high levels of
sexual violence that recruit survivors and, under the auspices of non-controversial programming like
sewing projects, teach victims about ways to access the legal system and receive reparations.

**9. Trial Phase**
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Victims face a number of barriers to justice at the trial stage. While the mobile courts have some advantages over regular courts, namely the undivided attention of judges and the fact that judgments are swift, actors involved in mobile courts suffer from many of the same barriers that beset regular courts. This includes problems of due process, lack of resources, and difficulties in determining fair reparations. Furthermore, mobile courts are established in remote, rural areas, adding infrastructure and logistical difficulties to the many challenges that already exist in judicial proceedings in Eastern DRC.

i. Infrastructure challenges

Transport issues: regular courts

As mentioned earlier, most rural areas of the DRC are extremely distant from provincial High Courts, and in the absence of a specially established mobile court, some regions are completely cut off from the justice system. Other areas are so remote that victims may lack access to justice despite being theoretically covered by a regional judicial system. Poor roads and infrastructure contribute to the difficulties victims face in taking their cases to trial.

Transport issues: mobile courts

Mobile courts are established to reach remote areas that are unserviceable by the regular justice system. The provision for mobile courts was initially written into the Constitution of 1960 because officials realized the near impossibility of providing a legal infrastructure across such a vast territory. Areas with the highest need for mobile courts are often the most remote: roads are sub-standard across much of the DRC, and the first challenge that organizers of a mobile court must overcome is the problem of transport.

One former UN official observed that mobile courts are more likely to be set up in areas that are remote but not too remote, isolated but not too isolated. Problems of weather and climate can also be deciding factors. The same former official noted that mobile courts are usually held in the dry season to facilitate ease of transport, both for officials and for victims, witnesses, and the accused. Whether or not a mobile court is ever established can therefore depend on arbitrary factors.

Mobile court logistics

The government is legally responsible for conducting criminal investigations and for organizing either regular trials or, if appropriate, facilitating mobile courts. Despite this legal obligation, the Congolese state often falls short. To fill this gap, the international community organizes the majority of mobile courts from start to finish. NGOs and UN agencies provide transport and logistical assistance, and also pay for food and accommodation for participants in the trials. While international organizations and NGOs do not pay the salaries of judges or the per diem rates for participants such as witnesses or victims,
they do pay for associated travel costs such as food, plane flights, and hotel fees. As one stakeholder mentioned, the international community cannot “pay authorities to do their jobs,” but they can provide funds to facilitate mobile courts. Without this assistance mobile courts simply would not get organized.

One NGO employee suggested that mobile courts would only be effective if local and international NGOs sought to work together in synergy. In the Bukavu area, there is an “International Justice Taskforce” which brings together international partners, including international NGOs and UN agencies, and local partners. The former provide funding, the latter provide access to the victims. Together, all partners negotiate the format, location and duration of a proposed mobile court. A similar mechanism exists in Goma, North Kivu, but participants suggested that such methods of collaboration are not yet being fully implemented.

**ii. Time constraints at mobile courts**

NGO funding is limited, and thus mobile courts can only operate in a particular area for a set number of days. UNDP figures indicate that in 2011 the average mobile court operated for around twelve days. Mobile courts offer the advantage of requiring judges to focus exclusively on one set of crimes, while they also suffer from extreme time constraints, which can be detrimental to justice. Several legal officials interviewed observed that judges are sometimes required to try to conclude one case per day during mobile court sessions, whereas they might take one or two weeks to deliberate a case in the regular courts. This time constraint inevitably leads to rushed justice and can compromise the outcome of a trial.

**iii. Delayed access to justice**

While mobile court trials are rushed, the entire process leading up to the trial is often excessively drawn out. According to the Constitution of 2006, the entire judicial process, from reporting the rape through the conclusion of the trial, should not take more than four months (the pre-trial phase should account for one month, the trial three months). However, in reality, victims often wait over a year between their first visit to law enforcement authorities and the trial. One UN official suggested that there are often extreme delays in the documentation moving from one process to the next. After the completion of each stage, documents should be passed on to the next official, but they often end up lost, misplaced or forgotten. Excessive reliance on paper documents and poor IT systems further compound the delays. A collection of over 6,000 cases involving sexual violence in South Kivu, North Kivu, and Ituri in 2010-11 reveals that the pre-trial phase took an average of 41.3 days (the law requires no more than one month) and the trial phase took an average of 143 days from initiation into the justice system to reaching a decision. This is far longer than the three-month timeframe that the law stipulates.
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**iv. Victim and Witness Protection**

Victim protection is often limited, and lack of security can be a major deterrent to survivors accessing the justice system. One representative of an international organization suggested that although the organizers of mobile courts will not allow victims to testify if safety concerns exist, in reality it is difficult to guarantee the safety of victims. As another stakeholder interviewed noted, it is “impossible to arrest a whole battalion”; even if one soldier or rebel ends up imprisoned (and does not manage to escape), his comrades will remain at large.88 Another judge recounted attempts to locate perpetrators that had been convicted and imprisoned in Uvira. When he contacted the Uvira detention center, the prison could not account for them.89 MONUSCO has a protection unit for victims involved in both individual and mass crimes, in which victims are moved from their homes to mobile court locations.90 The program prevents victims from testifying if there is concern over security conditions.91 They are given MONUSCO’s contact information, or in the case of some mass crimes, a specific SIM card.92

The court proceedings themselves present safety concerns by not maintaining the anonymity of the survivor. Article 74(a) of the criminal procedural code requires that the presiding judge or prosecutor take precautions to safeguard the security, physical and psychological well being, dignity and respect of the private life of the victim and all implicated parties. As such, the victim has the right to request a trial huis clos; and, furthermore, when the victim is a minor, her testimony must be conducted huis clos. However, ASF found that of the 209 cases surveyed, only 11% were conducted huis clos to protect the victim’s identity.93 One hundred and eighty-one of the cases were tried in public, 4 were mixed, and 24 were conducted huis clos.94 Ultimately, the inability of prisons to keep the accused behind bars, widespread insecurity with armed groups remaining at large, weak witness protection, and barriers to confidentiality and anonymity, demonstrate just how risky it is for a victim to take her case to court; further elucidating why so many victims are reluctant to do so.

**v. Fair Representation for the Accused**

The Congolese justice system requires that both plaintiffs and defendants have lawyers, but as one legal official interviewed asserted, international donors are happier to pay for representation for an injured young woman than to pay for the defense of an accused rapist.95 Unpalatable as defending murderers and rapists may be, providing representation for the accused is integral to the justice system. Both mobile and regular military tribunals make an effort, along with NGO partners, to ensure adequate representation, but these efforts often fall short.

According to UNDP figures, 89% of those tried in 2010 had some form of representation,96 but the quality of this representation is often questionable. One expert interviewed suggested that in sexual violence
cases, “[A] lack of evidence is never a problem. People are convicted on shaky testimony, which is a problem for due process.”97 Whether due to incompetence of the defendant’s lawyer, or disrespect for due process, the high conviction rates worried a number of stakeholders interviewed.98

The high rate of conviction could also be due to the nature of the cases that international organizations choose to take to trial. Lawyers who represent victims of sexual violence and are funded by the international community are highly selective when choosing victims to represent, and international NGOs prefer to fund cases that they believe will result in a conviction. One representative of an internationally funded organization explained that victims are sometimes turned away.99 Another interviewee described experiences meeting rape survivors who had evidence of the crime, but despite many attempts, were unable to get representation from lawyers.100 Ultimately, access to representation, and to the mobile courts themselves, is limited.

vi. Absent Victim or Accused

Beyond the accused lacking legal representation, the victim or the accused is sometimes absent from the trial itself. According to UNDP figures, victims were present in only 49% of cases across the Kivus in 2010.101 A number of participants interviewed commented that it can be very difficult to track individuals down to bring them to a court, even when a mobile court has been specifically set up to try crimes in a particular area. One NGO representative pointed out that judges have the capacity to rule that cases on behalf of absent victims should be heard concurrently with other victims’ cases.102 However, the absent victims are often unaware that their case has ever been heard by a court, or that reparations have been awarded.103 Similarly, one UN employee noted that months, or even years, might go by before a perpetrator realizes that he has been tried and convicted of a crime.104 Those interviewed attributed this to the lack of penetration by authorities into rural areas, lack of police resources, and lack of political will.105

vii. Requirements for Military Rank

According to Congolese law, the first president of a military court must be of equal or higher rank than the accused. Until 2012, the highest-ranking military magistrate was a Brigadier-General, meaning that “Lieutenants-General and Majors-General [were] functionally immune to prosecution.”106 One NGO worker informed us that President Kabila recently appointed new senior military judges to remedy this problem,107 but some judicial officials interviewed believe that this antiquated stipulation is a major barrier to effective justice.108 “[…] Military judges undergo many years of legal training in order to qualify, while the soldiers or civilians being tried often have no concept of the law, whatever their rank,” said one judge.109 Requiring military judges to be of higher rank than the accused on trial hinders Congolese courts from convicting high-ranking military personnel. During the years that military judges
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spend receiving their legal training, acting officers are moving up in the ranks of the military. By default, this means that many military judges will have a lower rank than those high-level officials being tried.

Given the fact that there are so few judges with a high enough rank to try senior members of FARDC, the legal response to sexual violence in the DRC is thus reliant on the ICC. While judicial officials interviewed were quick to praise the ICC as an important additional tool for justice, there was consensus that justice should begin in domestic courts and the ICC should be a court of last resort. Indeed, if senior military commanders simply cannot be tried at home, the fight against impunity is severely constrained. The lack of qualified judges also poses major problems for organizers of mobile courts. One interviewee noted that in some instances, lack of coordination between NGOs and UN agencies organizing mobile courts has led to a single judge being expected to preside over multiple mobile courts on the same day.

**ix. Difficulties Determining Reparation Value and Type**

Judges face difficulties in determining the amount of the reparation awarded. As one judge interviewed observed, “raping a baby and raping an old woman are different crimes, even though both are rape. We need to be equitable in the calculation of damages, but there is a problem deciding how much each crime is ‘worth.’” The same judge suggested that the amount victims are awarded should relate directly to the damage the victims have suffered. Judges take whether or not the victim can still work into account, for example. Judges also consider medical and psychological evaluations, when available. Contrary to the law, victims are often forced to arrange for these medical or psychological evaluations that are be used in testimony. Due to the costs involved, victims may avoid this step, meaning judges have little evidence beyond the statements of those directly involved in the case.

While victims can make requests regarding reparations, and doctors and psychologists may make recommendations, ultimately the judges decide pecuniary compensation on a case-by-case basis. There is no maximum or minimum reparation amount for a given crime. It depends completely on the case at hand, but the judges are required to explain the logic behind the amount of reparations, decided based on the above factors. However, as one senior judge observed, “There is no amount that can do its objective of making up for dignity. Human dignity cannot be measured in financial terms.”

Judges evaluate the victim’s circumstances rather than the accused’s circumstances when determining the reparation amount; neither the defendant’s military rank nor financial situation is taken into account. One local lawyer interviewed suggested that there should be a mechanism in place to determine how much the
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accused is capable of paying, and to institute payment plans to ensure that the reparation is paid, but this appears to be a long way off.

Judges interviewed agreed that the victims could in theory ask for customary reparations that are non-monetary (i.e. five or six cows), but when they take their cases to court, the presiding judges will usually convert the requests into monetary amounts. However, it is rare that a victim asks for non-monetary compensation. One illustration of victim preferences comes from the Thomas Lubanga trial at the ICC. Lubanga’s victims were asked explicitly whether they wanted collective or individual reparations. The vast majority chose individual reparations. According to one judge interviewed, a victim will never choose to favor the community over him or herself. “The victim feels it first,” he says, “and they should be the first to be compensated.” The same judge suggested that the best way to approach reparations might be to award something small to the community alongside, rather than instead of, the individual’s reparations.

On the other hand, one lawyer who has been involved in a number of mobile courts suggested that an emphasis on individual reparation for sexual violence survivors could be socially divisive. “If there are 400 people in a village when it is attacked, they will all suffer,” he said, “If you award reparations to 100 women who have been raped, but nothing to an individual who has lost an arm, their children or their home, it can create divisions and further social problems.” He pointed out that the international community’s focus on sexual crimes means that the suffering of rape victims can be elevated above the suffering of victims of other violent crimes. “To get funding, NGOs have to concentrate on rape,” because donors are more likely to fund sexual violence programs. This focus can spill over into the judgments: sometimes, mobile courts are set up specifically to focus on sexual crimes, and this can breed resentment in victims of other forms of violence.

10. Post-Trial Phase

The post-trial process for a victim who has been awarded reparations is long and complex. First, victims must pay US$15 to obtain a copy of the judgment from the clerk or Public Minister. In military cases that fall under the jurisdiction of South Kivu or Ituri, this requires a potentially costly trip to the administrative office of the military court in either Bukavu or Uvira. Next, the copy of the judgment must be signed by the provincial governor and taken to the Ministry of Justice in Kinshasa, where the state verifies its responsibility to pay the reparation in coordination with the Minister of the Budget. One judge stated that SGBV cases are supposed to be considered a priority once received by the office of the Minister of Justice. However, it is impossible to verify whether this is being implemented as there is no evidence of awards reaching this stage.
For the victim to receive a monetary award, he or she must also pay 6% of the total amount she was awarded, as a processing fee. In most cases, the victim is impoverished and does not have the ability to pay. In order to avoid this fee, the victim must go through another step, to obtain a certificate of indigence from the Ministry of Social Affairs, attesting to his or her indigence and entitling the individual to a copy of the judgment without fees. However, in order to deliver the certificate, the authorities have to conduct an investigation to determine that the victim does not have funds to pay for the certificate. The international community wants to establish mechanisms by which victims who have successfully received judgments might be automatically considered vulnerable, making the certificate of indigence obsolete. However, at the moment, victims must present complicated paperwork to receive their certificate.

After completing all of these requirements, the plaintiff and lawyer must present all documentation to the presiding judge, who signs a form and, in theory, dispenses the amount. This convoluted process poses serious logistical barriers. Multiple judges attested to the fact that victims never receive reparations. According to one judge, the fact that his court has never received the 6% fee that victims must pay to receive their reparation amount serves as clear evidence that no reparations have been paid.

In the civil court system, the government is never convicted in solidum and is not required to pay reparations. Rather, the individual perpetrator must pay the reparation amount. If the perpetrator has no means of paying the reparations that he is required to pay, then there is no alternative way for victims to receive the compensation they have been awarded. In theory, police can seize the perpetrator’s property, but legal officials argued that this rarely happens. In civil cases there are no mechanisms to determine whether the perpetrator has money or property capable of being seized to cover compensation for victims. The only way to definitively establish that the convicted does not have such money or goods is to pursue the execution through the end.

### i. Barriers

The fact that reparations are not paid after a long, and potentially humiliating trial, frequently makes victims feel that nothing has changed for the better; meaning the public exposure and shame they endured during the trial process was for naught. When victims do not receive the money promised to them, which, in most cases, incentivized them to go to trial in the first place, they are likely to advise other victims against going through that same process. Despite its arduousness, the process has notable merits. First, watching perpetrators of grave human rights abuses receive prison sentences can provide victims with a sense of security and justice. Second, convictions signal that impunity will not be tolerated. Convictions can serve to repair or reinforce cohesion of communities affected by violence.
Barriers to Justice

These positive effects are often undermined because, even in the event of a conviction, survivors of sexual violence require a lawyer to guide them through the complex process of receiving the reparation after a verdict. However, lawyers are only paid to aid victims up to the point at which the judgment is given, and concern for justice alone does not motivate lawyers to continue assistance beyond that point.\(^{139}\) Attorneys have no monetary incentive to continue working with the victim to ensure full execution of the judgment.\(^ {140}\) UNDP is currently organizing seminars to help lawyers recognize the importance of aiding victims through the entirety of the process, including execution of the judgment.\(^ {141}\) However, without monetary compensation, it is unlikely lawyers will have the time, resources, or motivation to follow up their cases.

Some stakeholders interviewed asserted that international actors must withdraw at this stage because reparations cannot, by definition, be provided by an actor other than the state or the individual perpetrator. Otherwise, the money would merely constitute victim aid, as opposed to reparations. However, it is unclear why international NGOs cannot continue to provide funding to pay lawyers to see the victims through end of the reparations process.

The general assumption that perpetrators are indigent stifles any incentive to seek a forced collection of money or goods from the outset. Yet in many cases, victims do not receive their reparation because lawyers have not followed up with the case beyond the judgment, regardless of whether the perpetrator is indigent.\(^ {142}\) Furthermore, the fact that so few lawyers follow up after judgments has led to a dearth of data and information about the reparations process. Without this data, international organizations and legal aid groups are limited in their advocacy efforts and find it difficult to make their case for the creation of a victims’ fund or other mechanisms for aiding the implementation of reparations.\(^ {143}\)

Furthermore, the Congolese judicial system suffers from major shortages in funding throughout the legal process. For example, courts often lack basic office supplies like paper and pens. Indeed, one judge interviewed explained that all of his office supplies, including his desk and chair, came from international organizations or were purchased at his own expense.\(^ {144}\) Fighting impunity becomes difficult when judicial offices receive no funding from the state.\(^ {145}\) This is compounded by a lack of political will from the country’s leadership, including the president.\(^ {146}\)

**11. Prevention**
Barriers to Justice

Stakeholders suggested the following programs to limit sexual violence from occurring in the first place: early warning systems, such as ABA’s text message alert system; community level early warning committees, comprised of local authorities, religious leaders, police officers and members of civil society; and other preventative measures, such as improved lighting in rural areas. Stakeholders also mentioned education as a method for combating sexual violence. Women and girls throughout the DRC lack access to, and funding for, school. Over 80% of women and girls are illiterate. Stakeholders argued that increased access to education would empower women and girls, making them less vulnerable to sexual violence.

Stakeholders also called for sensitization campaigns to change attitudes about sexual violence. These campaigns aim to reduce the stigma women face from their families and communities after suffering sexual abuse by targeting communities, men, and boys. They make women less fearful of disclosing their experiences of sexual violence for fear that their husbands will abandon them. Moreover, sensitization campaigns would shift the stigma from victims to perpetrators, in both the community and at the national level, allowing victims to reclaim their dignity and rebuild their lives.

Moreover, given the preponderance of sexual violence in the military, stakeholders called for military trainings and sensitization campaigns. Soldiers commonly believe that sexual relations make them invincible or that their chances for military success are improved when they have sex with virgins. Further, they operate at high stress levels often under the influence of drugs. These problems are compounded by the fact that, due to the recent integration of rebel soldiers into the national army, the FARDC now includes former rebel soldiers who have committed acts of sexual violence in the past. A military authority argued that in order to prevent the continuation of sexual violence crimes, a campaign is necessary to help soldiers “understand the behaviors and circumstances that lead to the perpetration of grave crimes” and to foster respect for fundamental rights and liberties of individuals.

Reparation is the prevention measure most directly related to the research conducted for this report. Stakeholders, especially those who work within the justice system, believe strongly that reparations can have a major dissuasive effect in the long run. If victims are compensated and perpetrators are sent to prison, then people may be less likely to commit crimes in the future.
12. Conclusion

This report focuses on reparations awarded in civilian and military courts for victims of sexual violence in the DRC. The authors approached this project with the understanding that the conflict in the DRC has caused the death and displacement of millions, along with the rape of hundreds of thousands. How can justice be offered to these countless victims? Researchers sought to clearly define the DRC’s complex justice system and the ways in which international actors might contribute to the fulfillment of justice. When considering legal reparations for victims of sexual violence, the following questions were addressed: What is considered a reparation? Is the Congolese legal system functional and effective in delivering judgments? Do victims have access to justice? Answering these questions allowed the team to examine the multiple barriers victims face towards receiving reparation, and establish what needs to be changed to enable victims to receive redress.

In summary, the DRC’s legal code defines rape as a crime punishable by imprisonment. Despite the international focus on mobile courts, victims can access justice from courts under both civilian and military jurisdiction, stationary or mobile. However, while there is a scale for prison sentencing used by judges, amounts awarded for reparations remain subjective and the amounts awarded often exceed what most perpetrators might be able to pay. Traditional justice, on the other hand, feeds corruption and undermines the rule of law.

In theory, if the legal system were functioning according to the constitution, survivors would jointly file a civil suit and criminal case. In a civil trial, the court could rule that the convicted owes the victim a reparation. In a military trial, under the appropriate circumstances, the court could rule that the Congolese state owes the victim a reparation in solidum with the perpetrator. Following the court’s decision, the victim would pay a fee and a percentage of her reparation in order to solicit the government to collect the debt owed to her. Finally, the convicted or the Congolese state would pay the reparation.

In practice, legal processes diverge significantly from the stated criminal procedural code due to the numerous obstacles outlined in this report. Access to justice remains limited despite the international community’s active role in establishing legal clinics, coordinating medical personnel with law enforcement, and sensitization campaigns. Even if a victim does brave the negative social stigma and files a case with the help of the national police and a lawyer, they might have to travel hundreds of kilometers to get to the nearest provincial District Court. As an alternative, there is the slim chance that a case will be picked up by an NGO, which will orchestrate a mobile court with a victim’s case on the docket. If a victim somehow overcomes these pre-trial barriers, they must attend a lengthy and complex trial phase. If the judge convicts the accused and awards pecuniary reparation, the survivor must obtain
compensation by initiating a forced execution. As this report has shown, there are a multitude of impediments: if the victim is not solvent, has not obtained a certificate of indigence, and is not aided by an NGO, prohibitively expensive fees and duties must be paid to the Public Minister to enforce collection of her award;\textsuperscript{157} lawyers almost never follow through with the execution, parting ways with their client as soon as the judge delivers a verdict; and the government lacks the will to the pay the reparations they owe \textit{in solidum} to victims of sexual violence.

This paper has outlined the obstacles that prevent survivors from receiving due justice. Every actor involved in the Congolese legal system interviewed for this report detailed two negative effects of victims not receiving reparations: first, victims are left with a sense that justice was not served and, secondly, other survivors are discouraged from coming forward. Furthermore, victims need reparations for more than symbolic purposes: the rape might have resulted in pregnancy, disease, physical incapacitation, or abandonment by a spouse. International organizations and NGOs focus their efforts on access to justice and supporting mobile courts, but generally fail to address the post-trial phase. NGOs can lobby the Ministry of Justice and the Ministry of the Treasury to pay its debts to survivors, they can create a victim’s fund that could provide money if the convicted is insolvent, and they can advocate for judicial reform that would eliminate the obstacles victims face in the legal chain.

The continuation of the conflict itself is a major cause of the preponderance of sexual violence in Eastern Congo. The restoration of peace and security is crucial to ending sexual violence in conflict. One lawyer mentioned the need for transitional justice and post-conflict reconciliation mechanisms such as a truth and reconciliation commission, as opposed to court-based proceedings. “Even the perpetrators have suffered injustices,” the lawyer argued, and it is very difficult to establish rule of law while conflict continues.\textsuperscript{158}

Ultimately, there are myriad reasons why sexual violence occurs and why impunity persists. This report has demonstrated the many barriers victims face in seeking justice through the court system, and has offered some solutions. Despite these barriers, victims deserve justice for the crimes they endured. Reparations are only one step in a multilayered process of justice and prevention. Again echoing the sentiments of one judge interviewed, human dignity cannot be measured in financial terms, and thus no award can entirely repair the harm done to victims of sexual violence.\textsuperscript{159} And yet, reparations are a necessary gesture towards alleviating the suffering of victims of sexual violence.
Barriers to Justice

13. Recommendations

i. Continue to fund lawyers and advocates to aid victims through the post-trial phase:

One of the major barriers to reparations is the complicated claims process that follows a court verdict. Victims often are neither aware of the process, nor do they have the capacity to follow through on their own, and lawyers are not paid to assist them after reparations are awarded, leaving the victim without access to post-trial legal assistance.

Barriers: Although funding lawyers to continue aiding victims until they receive their reparations could limit the number of lawyers available to work with victims and the pre-trial and trial phase, this barrier could be overcome by hiring non-lawyers to assist victims through the post-trial process. A lawyer is not required at this stage; rather, the victim just needs guidance from someone who understands the complex steps required in order to receive the reparation amount. International actors are in many cases barred from providing assistance at this juncture due to questions of sovereignty. For instance, United States policy dictates that it cannot fund judicial investigations by military tribunals, including lawyers and judges, because it is against US policy to directly fund governments, and military tribunals are technically part of the DRC government apparatus. MONUSCO, which has been criticized in the past for usurping state power, strongly mandates against funding processes that might be viewed as the role of the state. Many international organizations do not fund the post-trial phase because it is viewed as the point at which the actual delivery of a reparation is rendered and is therefore the responsibility of the state. International organizations are further discouraged from aiding this part of the process because the government has continually reneged on promises to provide funding for reparations or associated programming.

ii. Provide extra-legal, monetary, or in kind support for survivors:

Although victims can in theory ask for non-monetary reparation, only monetary reparations have been awarded in the DRC as judges convert the request of non-monetary reparations into an equivalent monetary value. Barriers to implementation of monetary reparations must be overcome, but international NGOs could also advocate for non-monetary forms of reparation, such as public apologies by the president, state officials or the defendants themselves.

Barriers: Top down approaches to address creative and alternative solutions should be explored. However, agreeing on a consensus for the types of in kind or out of court settlements administered is difficult, and will often differ from case to case. Out of court settlements may prevent criminal cases from being filed with the court, as the law dictates, which could be seen as detracting from the rule of law and justice.
iii. Create a reparations fund for victims:

While the state is ultimately responsible for paying *in solidum* reparations awarded to victims, it was recommended that international organizations fill the gap in the interim. International organizations could pay a portion of reparations until the Congolese state is able to pay them in full. One lawyer noted that the ideal situation is to create an agency at the state, UN or international level to pay out reparations awarded for damages suffered.  

**Barriers:** Stakeholders expressed concern that this model would encourage judges to approve exorbitant reparation amounts. A number of representatives from international organizations noted that this would likely result in a shortage of funds. If a victims’ fund were established, it could be a target for corruption. Structural change within the government itself would be required to prevent this outcome. One lawyer felt it might be most effective to give money to organizations working directly with victims rather than to the government to avoid corruption. There have been attempts in the past to transfer funding from international donors directly to victims, but the international community proved unwilling to aide the transfer and funds were ultimately returned to the donating foundation. Furthermore, guaranteed financial incentives may lead to an increase in false claims, especially considering the pervasive poverty in the DRC.

Furthermore, if NGOs or the UN were to pay reparations that the Congolese state has been required to pay, this may further undermine the already extremely tenuous social contract that exists between the Congolese government and its people. As one former UN official interviewed noted, “The Congolese state has already contracted every single state function out to the international community. Taking on punishment that the courts award the state seems to be crossing the line.”

iv. Create new centers for victims (centre de cour):

Advocate for the creation of regional centers for victims to gather and share their experiences and receive medical and psychological aid. Centers like this already exist, for example Panzi Hospital, but additional hubs are needed.

**Barriers:** Access to such facilities may prove problematic, and existing cultural pressures may prevent survivors from taking advantage of these centers. Additionally, the range of services needed may surpass program capabilities.

v. Upgrade legal actors’ access to technology:

Lack of electronic communication between courts and poor postal services make communication between courts difficult. Documents often get lost in the transfer process. NGOs should focus on upgrading the IT
systems of local courthouses, donating new computers, printers, scanners, and so on. Training in electronic classification methods would help courthouses standardize and systematize records. Furthermore, NGOs could consider financing postal services between courthouses, or look into other methods of improving the speed and reliability of communication between legal actors.

vi. **Implement security sector reform and training for security actors working with victims of sexual violence:**

Expand pilot programs, such as those being carried out by PHR in Bukavu and Goma, which seek to bring police, army leaders, judges, doctors and lawyers together for training and sensitization. In addition, begin specific trainings for the armed forces; teaching about sexual violence and human rights. Mechanisms should be introduced to limit individuals (including former combatants integrated into the FARDC) who have a history of committing rape from participating in the armed forces. Police should also receive trainings to ensure their sensitivity during referrals for sexual violence cases. Reform of the prisons in the DRC is also extremely pressing. Aside from the central court in Kinshasa and a new court in Bukavu, the prisons cannot keep perpetrators from escaping due to a lack of funding; this is a serious security concern. A program should also be instituted in prisons that allow perpetrators to work while incarcerated, earning a wage that could be put towards a fund for reparations.

vii. **Strengthen victim protection and security:**

The safety of victims must be guaranteed throughout the entire judicial process in order to promote justice. Although victims are technically not required to testify in court if they face security risks, many end up testifying either because they decide to do so themselves, or because they are not exempted from testifying. Strengthening victim protection and security should be prioritized. Courts should be pressured to provide adequate protection to victims; for example, victims who feel threatened should be allowed *huis clos* hearings (“behind closed doors”).

**Barriers:** This requires knowledge and implementation by court officials. Court personnel must therefore be educated on the rights of victims, or judges must ensure that security measures are implemented in their courts. Some security measures may face monetary constraints, especially for mobile courts. For example, in January 2011 there was a mobile court in Baraka. In total, the entire court, including judges, lawyers, victims, clerks, defendants, and guards, had to make eight different trips by plane between Baraka, Bukavu, and Kinshasa. Ndulu prison in Kinshasa is the most secure, meaning the most dangerous perpetrators carried with them the added cost of flying to Kinshasa.
viii. Alter requirements for senior military rank:

Since Congolese law requires that the rank of the presiding judge is equal or higher than the accused, it is difficult to convict high-ranking military personnel. Military judges do not have the same opportunities to increase their rank as other military personnel. They must receive eight years of legal training during which time their colleagues are receiving promotions. In cases where the accused outranks available judges, the ICC takes the responsibility of conducting the trial. Although the ICC is an important tool of justice, it is unrealistic to expect that the ICC permanently fill in for the domestic courts. Military rank requirements therefore allow senior military officials to enjoy impunity at home. According to one NGO worker and former UN official, the Congolese assembly and the senate recently passed a new code of organization and judicial competence (loi d’organisation et de compétence judiciaires), which provides that war crimes, crimes against humanity and genocide will all be under the exclusive jurisdiction of the civilian appeals chamber (chambre d’appel), a high court with five sitting judges. While researchers have not managed to find other evidence or senate records indicating this development, the individual interviewed suggested that this will “cause a big earthquake in terms of the judicial system”: International NGOs have been supporting the military court system for so long that such a major change to the system will have a serious impact. The international community must act fast to embrace the coming legal changes that address the problem of military rank. According to Congolese law, military judges will now be able to sit in civilian courts (known as a court of mixed composition), which could allow international crimes carried out by soldiers to be tried in a civilian court, but by military judges. International organizations must begin to shift their programming to fund and train civilian court participants in anticipation of this shift.

Barriers: As with all legal provisions, having the law in place does not ensure implementation. Furthermore, the logistical and infrastructure challenges that affect state functions in the DRC could slow the process of enforcing this law.

ix. Exempt victims of sexual violence from court fees:

Victims of sexual violence should be exempt from all court fees across the board. This does not require changing the law; rather, each individual court can issue an edict declaring that victims of sexual violence will be exempt from all court-related fees.

Barriers: One former UN official suggested that “all court fees, without exception, go directly into the pockets of the prosecutors,” and therefore waiving fees should make no difference to the courts’ budgets. However, those judicial officials that might benefit from victims paying fees will be adverse to any changes in this policy.
### Appendix I: Matrix of Judgments

<table>
<thead>
<tr>
<th>Case number (RP, RMP, etc.)</th>
<th>Brief description of case</th>
<th>Date/location of Events</th>
<th>Age of Victim</th>
<th>Date of judgment</th>
<th>Location of the judgment</th>
<th>Mobile court?</th>
<th>Is this an appeal?</th>
<th>Convictions/sentencing</th>
<th>If reparations were rewarded elaborate</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>RP N° 014/007 RMP N° 0468/MA1/07 RMP N° 0512/MAA/09 RP N° 01/2/29 RMP N° 0486/MAA/09</td>
<td>War crimes case involving 221 victims filed as plaintiffs against 26 members of the Mai-Mai rebel group, accused of murder, kidnapping, recruiting and using child soldiers, cannibalism, execration and mass rape. The Atrone State cited (war crimes and crimes against humanity) in addition to Congolese criminal law.</td>
<td>Central Katanga province</td>
<td>n/a</td>
<td>10/7/2007</td>
<td>Le Tribunal Militaire de Garnison du Haut-Katanga fait à Kipushi</td>
<td>yes - held in Kipushi</td>
<td>no</td>
<td>5 acquitted for lack of evidence. 9 received the death penalty. The rest sentenced to 10-20 years of penal servitude.</td>
<td>31 plaintiffs ordered to pay between US$125,000 and US$300,000; the rest of the defendants were condemned to pay between US$60,000 and US$150,000 to be paid to victims in solidum with the Congolese state</td>
<td>-</td>
</tr>
<tr>
<td>RMP N° 25/4/PEN/SIO/1/05 RPA N° 0/1/2006</td>
<td>“L'affaire Songsi-Mboyo” - 7 defendants alleged to have pillaged, raped, and murdered the town of Songsi-Mboyo. The case accused soldiers of the FARDC 9th battalion of gang raping at least 119 women and girls, including many minors.</td>
<td>12/21/2002, Songsi-Mboyo, Bongondanz territory, Mongala province</td>
<td>n/a</td>
<td>12/4/2006</td>
<td>Tribunal militaire de garnison de Mbandaka</td>
<td>no</td>
<td>Yes: in April 2006, a Congolese military tribunal convicted 7 FARDC soldiers and sentenced them to life imprisonment for crimes against humanity, on the basis of the Statute of the ICC. 7 June 2006: judgment on appeal confirming the decision of the lower court concerning the 6 defendants and acquitting the last.</td>
<td>6 of the defendants received between 40 years and life imprisonment for destruction of military munitions, pillage, rape, and crimes against humanity</td>
<td>US$10,000 for deceased victims of rape (to go their direct family); one civil party qualified for this award (the mother of a deceased victim). US$5,000 for the survivors of rape - 29 individuals named in the civil suit were awarded this amount. The reparations were to be paid in the equivalent in congolese francs.</td>
<td>-</td>
</tr>
<tr>
<td>RP N° 086/2005 and RP N° 102/2006</td>
<td>“Les Mutins de Mibumba” - 61 defendants charged with leaving their barracks and raping and pillaging a village. Hundreds of victims, filing civil suits.</td>
<td>6/3-4/2005, Mibunda</td>
<td>n/a</td>
<td>6/10/2006</td>
<td>Tribunal militaire de garnison de Mbandaka</td>
<td>no</td>
<td>Yes: appeal lodged by 10 defendants and 25 civil parties. 15 June 2007: confirms earlier convictions, increased damages awarded. It also accepted 7 new victims, to whom it awarded damages.</td>
<td>Judgment on appeal which confirms 8 convictions including only 3 for crimes against humanity and acquits the 2 others.</td>
<td>US$5,000 for rape victims - awarded to 5 individuals; US$6,000 for “rape and pillage” - awarded to 4 individuals. Ultimately, the Congolese State is required to pay a total sum of US$126,000</td>
<td>Judgment followed by notice of a reminder to pay dated 17 March 2008.</td>
</tr>
<tr>
<td>RP N° 043, RMP N° 1337/MTL/11</td>
<td>A Lieutenant Colonel of the FARDC ordered his men to attack the neighborhoods surrounding the location of the murder of Corporal Matumbo. Women found in hiding places, or in their homes were raped, sometimes in the presence of their loved ones or neighbors. 10 members of the military unit were recognized by their victims, and subsequently tried.</td>
<td>Kivu province</td>
<td>not known</td>
<td>2/11/2011</td>
<td>La cour militaire du Sud-Kivu</td>
<td>no</td>
<td>no</td>
<td>Imprisonment or other severe deprivation of liberty - 20 year prison sentence for 2, 8 not convicted. Rape - 20 year prison sentence for 2, 15 years for 2, 6 not convicted. Other inhumane acts and other similar acts - 20 year prison sentence for 4, 15 years for 2, 10 years for 3, 1 not convicted. Terrorism - 45 year prison sentence for 4, 15 years for 2, 10 years for 3, 1 not convicted.</td>
<td>Each victim was awarded the following: US$10,000 for rape, US$10,000 for arbitrary detention, US$2000 for assault, and US$500 for theft and extortion. One victim awarded knickers and underwear, another awarded underwear and a blouse.</td>
<td>Request that a school be built in Fizi deemed inadmissible. One defendant was a minor; his case was transferred to juvenile court.</td>
</tr>
<tr>
<td>RP N° 0064/2005 RMP N° 0110/2006</td>
<td>The case is against a Colonel and 8 other FARDC soldiers for the crimes committed during the “Kila Incident,” including throwing mortar bombs which burned down houses, summary executions of civilians, pillaging, rape, torture and arbitrary detention. Ami Mining Congo, a Canadian based mining company is also accused of providing logistical support to the troops.</td>
<td>Kilwa</td>
<td>n/a</td>
<td>10/12/2006</td>
<td>Auditeur Militaire Supérieur près le cour Militaire du Mibunda, bayimbi</td>
<td>yes</td>
<td>yes</td>
<td>All defendants acquitted for the kila incident, but two were sentenced to five years in prison for ordinary arrest, illegal detention, and life in prison for murder of two people committed at another location and one for just arbitrary arrest and detention, for one year in prison and 30000 FCC fine.</td>
<td>n/a</td>
<td>Records include a remani decision- meaning it states which laws should be used in a later trial, and the document of the trial.</td>
</tr>
<tr>
<td>RP n° 018; RMP n° 1280/MTL/2009</td>
<td>A lieutenant-colonel of the FARDC and 10 other members of the Congolese army (including his second in command) accused of rape, pillaging, destruction of schools.</td>
<td>Katanga, South Kivu</td>
<td>n/a</td>
<td>8/2/2011</td>
<td>Cour Militaire de Sud Kivu, Bukavu</td>
<td>n/a</td>
<td>no</td>
<td>Lieutenant-colonel BAILUMBA MINAFWE and his second in command, Major ELIYA MUNGEBA EUGIDE were sentenced to 15 years in prison for rape as a crime against humanity, and 15 years for other crimes against humanity. One officer sentenced to 5 years in prison and 100,000 francs in fines, three other officers sentenced to 15 years in prison. 8 officers were still loose and sentenced to life in prison in absentia.</td>
<td>US$5,000 for rape victims, awarded to 32 women. Five and varied reparations granted to men whose shops were pillaged (two men granted a cow and ten goats each, along with US$200 each, for damages; 1 man granted a case of beer, a goat, 1 pair of gumboots.)</td>
<td>Congolese state convicted in solidum</td>
</tr>
<tr>
<td>RP N° 101/2006, RMP N° 545/ PEN /2006</td>
<td>4 FARDC captives and 11 other FARDC officers accused of murder as war crime, one also accused of rape and pillaging.</td>
<td>Bavi, Ituri</td>
<td>n/a</td>
<td>2/19/2007</td>
<td>Tribunal Militaire de garnison de l'Ituri</td>
<td>yes</td>
<td>no</td>
<td>13 of 15 acquitted sentenced to life in prison for one for war crimes- murder, rape and pillaging, and the rest for war crime- murder. One of the accused sentenced to 180 days for culpable negligence. Because of his confession the 180 days was suspended. One was acquitted of criminal charges. All convicted given fines ranging from 20,000 to 100,000 congolese francs.</td>
<td>Total reparations of US$615,000. For the civil case there were 19 reparations given to survivors of the deceased ranging from US$10,000 to US$40,000, awarded to 19 people; US$10,000 for rape, awarded to 4 individuals.</td>
<td>Congolese state convicted in solidum</td>
</tr>
</tbody>
</table>
Barriers to Justice

<table>
<thead>
<tr>
<th>Case number (RP, RMP, etc.)</th>
<th>Brief description of case</th>
<th>Data/Location of Events</th>
<th>Age of Victim</th>
<th>Date of judgment</th>
<th>Convictions/sentencing</th>
<th>If reparations were awarded elaborate</th>
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<tbody>
<tr>
<td>RP N° 708/02, RMP N° 1886/BR, RMP N° 010.12</td>
<td>107 plaintiffs, all accused of having sex with a 16 year old girl. The man says he's her husband, but it's still illegal to have sex with someone under 18.</td>
<td>Bukavu, South Kivu</td>
<td>n/a</td>
<td>10/15/2011</td>
<td>One person received 20 yrs prison for each of war crimes of rape, of torture, of killing, and of attacking protected property.</td>
<td>US$1,500 and US$1,500 for rape victims, awarded to 9 individuals; (if he received $2,500, one received $7,500, and one received $25,000, and one received $30,000); from US$170 to $15,000 to victims of torture, awarded to 15 individuals; US$50,000 for murder, awarded to relatives of one deceased; US$800 for pilage, awarded to 41 individuals.</td>
<td>Congolese state convicted in solidum</td>
</tr>
<tr>
<td>RP N° 011/05</td>
<td>Members of the 'Maya-Maya' accused of rape, forced prostitution, forced sterilization, forced pregnancy, sexual slavery of 10 women, in one case lasting for 3 months.</td>
<td>M'?pandu, Kinsasa Province</td>
<td>n/a</td>
<td>10/26/2005</td>
<td>Two defendants sentenced to death (only one was present, the other sentenced in absentia.)</td>
<td>US$20,000 for victims of rape, awarded to 3 individuals</td>
<td>Congolese state convicted in solidum</td>
</tr>
<tr>
<td>RMP N° 375/M/FB/N01/2007 RP 134/2007</td>
<td>Two perpetrators were part of the police force and went door to door committing crime after crime including arbitrary arrest and detention, torture, pillaging, and crimes against humanity (including rape). One of the two perpetrators was only charged for assault and received 2 years in prison, whereas the other man received a life sentence.</td>
<td>Wakané, Kinshasa Province</td>
<td>n/a</td>
<td>2/18/2007</td>
<td>One defendant was convicted for 2 years for assault/battery and the other defendant was convicted of 5 years for arbitrary arrest and detention and torture, 5 years for extortion, 5 years for pillaging, and life for crimes against humanity.</td>
<td>30,000 euros for victims of rape; 60,000 euros for victims of rape and pillaging; 10,000 euros for victims of molestation; 6,000 euros for victims of rape and torture; US$50,000 - 100,000 for victims of extortion and arbitrary arrest and detention; 60,000 euros for victims of pilage only</td>
<td>Congolese state convicted in solidum</td>
</tr>
<tr>
<td>RP N° 275/09 and 521/10, RMP N° 556/07 and N° 157/20</td>
<td>400 plaintiffs against 2 defendants—both Rwandan FDLR soldiers.</td>
<td>Villages in Bangolo and Kalango, Katanga Province</td>
<td>n/a</td>
<td>8/16/2011</td>
<td>Perpetrations were given life sentences.</td>
<td>US$500 for victim of rape; US$500 for each victim of imprisonment or grave violations of physical liberty; US$800 for each victim of murder.</td>
<td>Congolese state convicted in solidum</td>
</tr>
<tr>
<td>RMP N° 003/01/MEC/01, RP N° 122</td>
<td>7 plaintiffs against 5 defendants, charged for crimes against humanity in the form of massive rape.</td>
<td>M'Benga, Bukavu, South Kivu</td>
<td>n/a</td>
<td>10/30/2010</td>
<td>Defendants demoted in the Congolese army as well as life imprisonment.</td>
<td>75,000 Congolese Francs for rape victims</td>
<td>Congolese state convicted in solidum</td>
</tr>
<tr>
<td>RP N° 072/2011, RMP N° 0186/MB/009</td>
<td>One plaintiff against one defendant, charged for rape and pillaging.</td>
<td>Shabunda, South Kivu</td>
<td>n/a</td>
<td>1/21/2011</td>
<td>Charges dismissed</td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td>RP N° 163/2009 and RMP N° 094/MB/009</td>
<td>One colonel is accused under the rule of command responsibility for the actions of four other defendants, all &quot;Maya-Maya&quot;, who are accused of the following crimes against humanity: murder, extermination, slavery, displacement of the population, imprisonment or other violations of liberty, torture, rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilization and other grave forms of sexual violence. The accusations involve crimes committed against 30 women and 8 minors.</td>
<td>Liego Lesio, Oubou Province, Tshopo Territory, South Kivu</td>
<td>n/a</td>
<td>6/30/2009</td>
<td>Colonel sentenced to: Rape - penal servitude in perpetuity; destruction and degradation - 7 days of penal servitude/30,000 congolese francs for assault - 6 months of penal servitude/30,000 congolese francs for illegal possession of weapons of war - 20 years of prison/100,000 congolese francs for rape with violence - 20 years of penal servitude/100,000 congolese francs; disinclination from the military. Defendant must also pay 10,000 congolese francs in court fees and 3 months of CPC.</td>
<td>31 victims were each awarded the equivalent of $10,000 in congolese francs in solidum with the state. The remaining five victims were awarded the equivalent of $20,000 in congolese francs for assault in solidum with state. The Colonel was also ordered to return 10,000 and 12,000 congolese francs to two individuals, in addition to a bag of diamonds worth approximately $12,000.</td>
<td>The lesser sentences were awarded to one of the defendants because he is a first time offender and because of his young age.</td>
</tr>
<tr>
<td>RP N° 07/01/2009, DRN N° 024/01 at 07/04/2010 RNP N° 088/07, RNP N° 215/2008</td>
<td>12 defendants (male and female). Defendant is accused of committing the following war crimes: rape, sexual slavery, inhuman or degrading treatment, death, pillage, attacking undefended localities, attacking protected goods, attacking civilians, organizing an insurgent movement.</td>
<td>Uvira, Orientale Province</td>
<td>n/a</td>
<td>7/30/2009</td>
<td>Convicted in solidum</td>
<td>n/a</td>
<td>Congolese state convicted in solidum</td>
</tr>
<tr>
<td>RP N° 115507*</td>
<td>A young man (born 10/12/1986) charged with raping 15 year old girl. He says she's his wife, but it's still illegal to have sex with someone under 18.</td>
<td>Bukavu</td>
<td>15 at time of crime (born 2003)</td>
<td>12/11/2007</td>
<td>Found guilty of statutory rape, sentenced to 36 months in prison (&quot;SPS&quot;) and 100,000 congolese francs (payable within 30 days, or else gets 15 days extra &quot;SPS&quot; if he fails to pay). Also has to do 7 days in prison &quot;CPC&quot; in lieu of paying the legal fees.</td>
<td>US$500 to the victim, payable by perpetrator</td>
<td>Taken from summary of cases provided by ABA - didn't see the judgement itself</td>
</tr>
<tr>
<td>RP N° 3081/01/07</td>
<td>A man accused of raping a girl 16. Medical examination showed that she had a &quot;sexual habituation&quot;</td>
<td>Lugaleko, Kinshasa Province</td>
<td>n/a</td>
<td>3/26/2010</td>
<td>Acquitted due to lack of evidence (&quot;in dubio pro reo&quot;)</td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td>RP N° 1260*</td>
<td>A minor accused of twice raping a girl 16. Medical examination showed that she had a &quot;sexual habituation&quot;</td>
<td>Lumumbashi, Kinshasa Province</td>
<td>n/a</td>
<td>8/16/2011</td>
<td>Acquitted for lack of evidence (&quot;in dubio pro reo&quot;)</td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td>RP N° 2038*</td>
<td>Statutory rape</td>
<td>not known</td>
<td>15 years</td>
<td>not known</td>
<td>Not guilty</td>
<td>$15,000 to victims of torture, awarded to 15 individuals; US$2,500 and US$7,500 for rape victims, awarded to 9 individuals; (if he received $2,500, one received $7,500, and one received $25,000, and one received $30,000); from US$170 to $15,000 to victims of torture, awarded to 15 individuals; US$50,000 for murder, awarded to relatives of one deceased; US$800 for pilage, awarded to 43 individuals.</td>
<td>Congolese state convicted in solidum</td>
</tr>
</tbody>
</table>
Barriers to Justice

<table>
<thead>
<tr>
<th>Case number (RP, RMP, etc.)</th>
<th>Brief description of case</th>
<th>Date/location of events</th>
<th>Age of Victim</th>
<th>Date of judgment</th>
<th>Location of the judgment</th>
<th>Mobile court?</th>
<th>Is this an appeal?</th>
<th>Conviction/Sentencing</th>
<th>Reparations were rewarded/ elaborate</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>RP N° 072/0922/RM/040*</td>
<td>A student at Fructus Kola had sexual relations with her teacher. Accused him of statutory rape, but in fact turns out he was probably only 18 at the time.</td>
<td>not known</td>
<td>uncertain</td>
<td>not known</td>
<td>Tribunal de Grande Instance d'Uvira</td>
<td>no</td>
<td>no</td>
<td>Acquitted of statutory rape, the &quot;victim&quot; is asked to pay half the court fees.</td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td>RP N° 0091*</td>
<td>A man accuses another man of raping 2 year old daughter. Medical examination showed no evidence that anything had been inserted in her vagina, but did show that she had some &quot;residues from the gland of the accused penis&quot; - definitely had been a violation of decency.</td>
<td>10/05/2010 at</td>
<td>Shabunda Centre,</td>
<td>not known</td>
<td>Tribunal de Grande Instance d'Uvira</td>
<td>no</td>
<td>no</td>
<td>Sentenced to 5 years of penal servitude for the crime against the child's morals, another 15 days &quot;de contrainte par corps&quot; in lieu of cash fees.</td>
<td>100,000 congolese francs</td>
<td>n/a</td>
</tr>
<tr>
<td>RP N° 12.274*</td>
<td>Man accused of attempted rape of a 6 year old girl. He admits that he took her under and wanted to sleep with her, but says she didn’t.</td>
<td>Bukavu, 12/12/2008</td>
<td>6 years</td>
<td>not known</td>
<td>Tribunal de Grande Instance d'Uvira</td>
<td>no</td>
<td>no</td>
<td>Acquitted due to conflicting accounts of what happened</td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td>RP N° 121003*</td>
<td>Statutory rape</td>
<td>not known</td>
<td>uncertain</td>
<td>not known</td>
<td>Tribunal de Grande Instance d'Uvira</td>
<td>no</td>
<td>no</td>
<td>Sentenced to 24 months SPP</td>
<td>100,000 congolese francs (10 days SPS, plus $300 to the victim)</td>
<td></td>
</tr>
<tr>
<td>RP N° 11534*</td>
<td>Accused of inserting his penis into and ejaculating into the mouth of his seven year old cousin.</td>
<td>1/25/2007</td>
<td>7 years</td>
<td>not known</td>
<td>Tribunal de Grande Instance d'Uvira</td>
<td>no</td>
<td>Yes</td>
<td>Appeal to overturn public audience 08/12/2007</td>
<td>Sentenced to 10 years SPP and 100,000 FC payable to the state</td>
<td>Also needs to pay 200,000 FC to the victim, represented by their mother</td>
</tr>
<tr>
<td>RMP n° 00580 RMP n° 0802/BMK/10</td>
<td>7 plaintiffs (along with the military auditor and the public minister) accused 5 defendants of crimes against humanity (mass rape). These 5 men were all members of the 83rd infantry battalion and directly coordinated a mass rape against the accused.</td>
<td>Mulanga, Uvira Province, Sud-Kivu 08/18/2009</td>
<td>n/a</td>
<td>7/11/2011</td>
<td>La cour militaire du sud-kivu</td>
<td>suspendu</td>
<td>Yes</td>
<td>Appeal to overturn prior ruling. The appeals court upheld the decision in all cases. One of the defendants since he died during the appeals process. The court increased the court fees for the 4 remaining defendants to 150,000 congolese francs</td>
<td>All 5 defendants sentenced to life in prison, 150,000 congolese francs in court fees</td>
<td>100,000 US dollars for each victim of rape</td>
</tr>
<tr>
<td>RMP N° 2893 RMP N° 12739</td>
<td>This is an appeal from a previous case. 12 plaintiffs accused 2 defendants for instigating rape and indirect assault, and for malicious destruction. These accused are civilians. The victims claimed the men inserted their fingers in the women's vagina. The victims had asked that &quot;Kivu Markets LLC&quot; be civilly liable for the damages caused.</td>
<td>23/02/2012</td>
<td>Kivu Market</td>
<td>3/15/2012</td>
<td>Le tribunal de Grande Instance de Bukavu</td>
<td>suspendu</td>
<td>Yes</td>
<td>Appeal to overturn prior ruling (RP 046/RMP 027/RMMAT/AME/2012 being tried before the tribunal of the office of the public minister. The appeals court did not uphold the charge of malicious destruction due to lack of evidence. The judge augmented the original charges to indecent assault and assigned a prison sentence in addition to monetary reparations.</td>
<td>Rape - 15 years of penal servitude/100,000 congolese francs (the defendant must pay within eight days); if he defaults on his payment in this time period he must serve six months of penal servitude</td>
<td>The original $50,000 reparation was reduced to $3,000 per plaintiff (for a total of $36,000). Kivu Markets LLC is still liable in solidum.</td>
</tr>
<tr>
<td>RMP N° 1708/BMK/21 and RMP N° 189</td>
<td>Two plaintiffs, a husband and wife, accused the defendant, a sergeant, of raping the husband to a tree and raping the 6 year old. The defendant is also accused of stealing the following: 6,000 congolese francs, a pair of heavy duty boots, two tubes of Dermasol, one Princesse-Claire ointment, one box of blue bicarsons, one mirror, three parts made of two different materials, one pair of jeans, two thongs, one blouse, two feltwear, one jacket, two records, one bed sheet, two flashlights, two medicine bottles, one pair of slippers, and one Coro-ointment. These were valued at $200 by the husband.</td>
<td>Kamituga, Mwenga, Sud-Kivu 28/09/2010</td>
<td>n/a</td>
<td>4/22/2011</td>
<td>Tribunal Militaire de Uvira</td>
<td>suspendu</td>
<td>no</td>
<td>Sentenced to 10 years SSP and 100,000 FC payable to the state</td>
<td>The defendant must pay the victims the equivalent of US$200 for the stolen goods. He must also pay the equivalent of US$500 in congolese francs, in solidum with the state.</td>
<td>Accused are civilians, but the civil case of Kivu Market, where the assault occurred, was found responisible in colis examining the accused.</td>
</tr>
<tr>
<td>RMP N° 0547/RMK/08 RMP N° 0166/08</td>
<td>A concubine in the FARDC was alleged to have raped the wife of a lieutenant garrisoned in Luwungi, Uvira territory, Sud-Kivu Province</td>
<td>Luwungi, Uvira territory, Sud-Kivu Province 40/01/2009</td>
<td>40 years</td>
<td>4/21/2009</td>
<td>Tribunal Militaire de Garson d'Uvira</td>
<td>suspendu</td>
<td>yes</td>
<td>Held in prison</td>
<td>The defendant was convicted of rape and sentenced to 30 years with a fine of 100,000 FC</td>
<td>On the basis of Article 258 of the constitution, the judge ruled that the convicted had to pay US$1,000 to the defendant because he convicted was off duty at the time of the crime, he was not condamned in solidum with the state</td>
</tr>
<tr>
<td>RMP N° 0715/RMK/09 RMP N° 0855/09</td>
<td>A commander in the FARDC was alleged to have raped a 14 year old girl in Katanga (10 km from Bakasa). The girl's mother filed a civil case and is therefore the entity eligible to receive reparations acting as an agent on behalf of her daughter. There were two legal issues: firstly, the defendant pled momentary insanity during the rape, and, secondly, his status and rank were a subject of debate as he had fought between the FARDC and rebel groups.</td>
<td>Katanga (10 km from Bakasa), Riv territory, Sud-Kivu province 14 years</td>
<td>2/4/2010</td>
<td>24/01/2010</td>
<td>Tribunal Militaire d'Uvira en chambre foraine à la Cité de Kamituga</td>
<td>suspendu</td>
<td>yes</td>
<td>Held in Kamituga, Mwenga territory</td>
<td>Defendant was convicted of rape, 10 years of penal servitude, ordered to pay a 100,000 FC fine, and expelled from the FARDC</td>
<td>The Congolese state, condemned in solidum with the defendant, owed a reparation of US$15000 to the mother of the victim for damages suffered</td>
</tr>
<tr>
<td>RMP N° 0716/RMK/09 RMP N° 0403/09</td>
<td>A first sergeant in the military is accused of raping a minor girl.</td>
<td>Kikongo, Uvira 14 years</td>
<td>12/20/2009</td>
<td>12/09/2009</td>
<td>Tribunal Militaire de Garson d'Uvira</td>
<td>suspendu</td>
<td>yes</td>
<td>Held in Kamituga, Mwenga territory</td>
<td>Rape - 15 years of penal servitude/100,000 congolese francs (the defendant must pay within eight days); if he defaults on his payment in this time period he must serve six months of penal servitude</td>
<td>The father of the minor was awarded the equivalent of $5,000 in congolese francs.</td>
</tr>
</tbody>
</table>
### Appendix II: UNDP data

#### UNDP Reparation Award and Prison Sentence Data for Sexual Violence Convictions

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Number of Judgments</th>
<th>Number Convictions</th>
<th>% Convicted</th>
<th>Average Prison Sentence (years)</th>
<th>Maximum Prison Sentence (years)</th>
<th>Minimum Prison Sentence (months)</th>
<th>Average Fine</th>
<th>Average Reparation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Military Court</td>
<td>79</td>
<td>64</td>
<td>81%</td>
<td>13.7</td>
<td>20</td>
<td>6</td>
<td>$263</td>
<td>$5508</td>
</tr>
<tr>
<td>Civil Court</td>
<td>525</td>
<td>295</td>
<td>56%</td>
<td>5.9</td>
<td>20</td>
<td>3</td>
<td>$652</td>
<td>$6197</td>
</tr>
<tr>
<td>Juvenile Court</td>
<td>37</td>
<td>33</td>
<td>59%</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>$315</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>652</strong></td>
<td><strong>392</strong></td>
<td><strong>60%</strong></td>
<td><strong>7.4</strong></td>
<td><strong>20</strong></td>
<td><strong>3</strong></td>
<td><strong>$597</strong></td>
<td><strong>$5921</strong></td>
</tr>
</tbody>
</table>

Appendix III: ASF data

ASF Reparation Awards Data for Sexual Violence Convictions

<table>
<thead>
<tr>
<th>Reparation Award</th>
<th>Number of Decisions</th>
<th>% of Decisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt; $500</td>
<td>36</td>
<td>35</td>
</tr>
<tr>
<td>$501-$1,000</td>
<td>18</td>
<td>17</td>
</tr>
<tr>
<td>$1,001-$5,000</td>
<td>40</td>
<td>39</td>
</tr>
<tr>
<td>$5,001-$10,000</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>$10,001-$20,000</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>$100,000</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>103</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

## Appendix IV: UNFPA data

### Indicators Table of Legal Results for Sexual Violence/2012 South Kivu

<table>
<thead>
<tr>
<th>Legal assistance 2012</th>
<th>Number of sexual violence cases collected(^{ii})</th>
<th>451</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number of victims assisted and/or represented in court</td>
<td>342</td>
</tr>
<tr>
<td></td>
<td>Number of judgments obtained: 239</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Acquittal or lack of jurisdiction</td>
<td>26</td>
</tr>
<tr>
<td></td>
<td>Convictions</td>
<td>213</td>
</tr>
<tr>
<td></td>
<td>Number of accused on sentence</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Sentence of 3 months to 1 year (number)</td>
<td>21</td>
</tr>
<tr>
<td></td>
<td>Sentence of 1 year to 5 years (number)</td>
<td>87</td>
</tr>
<tr>
<td></td>
<td>Sentence of 5 years to 20 years (number)</td>
<td>99</td>
</tr>
<tr>
<td></td>
<td>Penalty of life imprisonment (number)</td>
<td>06</td>
</tr>
<tr>
<td></td>
<td>Number of victims of sexual violence who received damages(^{iii})</td>
<td>04</td>
</tr>
<tr>
<td></td>
<td>Number of cases closed without follow-up</td>
<td>07</td>
</tr>
<tr>
<td></td>
<td>Number of prisoners in custody</td>
<td>191</td>
</tr>
<tr>
<td></td>
<td>Number of escaped convicts</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>Number of sentenced in absentia</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>Number of cases being tried</td>
<td>78</td>
</tr>
<tr>
<td></td>
<td>Number of accused(^{iv}) in detention</td>
<td>96</td>
</tr>
</tbody>
</table>

### For five legal clinics\(^{v}\) that have data available,
- 155 cases were referred to trial in which 322 victims were assisted.
- Of these 155 cases 108 were investigated by civilian courts and 47 by the military courts.
- 93 complaints were made through these five legal clinics.

### For Police Child Protection and the Fight against Sexual Violence (PELVS) in South Kivu for 2012:
- 969 cases were received and recorded from the vocal testimonies of victims,
- 809 cases were transferred to different High Prosecutor's Offices. The 160 case discrepancy concerns cases where the perpetrators are not identified or are cases of "litigation".

### Contributors to this report:
- ARAL
- ACPD (African Centre for Peace, Democracy and Human Rights)
- APRODEPED (Action for the Promotion and Defense of the Rights of the Disadvantaged)
- CADDHOM (Collective Action for the Defense of Human Rights)
- UCPDHO (Christian Union for Progress and the Defense of Human Rights)
- ADH (Action for Access to Human Rights)
- The NGO SOS IJM (Multi-sectorial Legal Information)
- The NGO RFDP (Women's Network for the Defense of Human Rights and Peace)
- Police Child Protection and the Fight against Sexual Violence
- Civilian and military Court Clerk's office

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\(^{i}\) The information given is not comprehensive; some actors did not provide their data.

\(^{ii}\) The number of applications received for which the parties did not continue the legal proceedings for one reason or another. This figure does not include one hundred reported cases in Minova (in the process of being confirmed) during the month of November 2012; those judicial investigations are taking place February 2013.

\(^{iii}\) Here this means those people who received partial compensation.

\(^{iv}\) These are people whose cases are still in progress.

\(^{v}\) Those five clinics are run in collaboration with the following NGOs: DMARDs (Ark of the Covenant) based in Fizi, ACPD based Kamituga, APRODEPED based Katana, CADDHOM based in Shabunda, and UCPDHO based in Uvira.
Appendix V: Sample of Noteworthy Cases

**RMP N° 154/PEN/SHOF/05 & RPA N° 014/2006 (June 6, 2006)**
A military court convicted six soldiers in the Congolese army (FARDC) of committing mass rape, categorized as crimes against humanity. The crime took place in December 2003 in the village of Songo Mboyo in the Equateur province. A military court of appeals ruled in June 2006 that the six soldiers had to serve life prison sentences and condemned them *in solidum* with the Congolese state to pay: US$10,000 to the mother of one victim, who died from the rape; US$5,000 to 29 survivors; US$3,000 to 3 individuals for property damage suffered from pillaging; and various smaller sums to other individuals for property damage. Seven soldiers were originally accused, but one defendant was acquitted for lack of evidence.

**RP N° 038 (March 11, 2011)**
Eleven members of the Congolese army (FARDC) were convicted of crimes against humanity, which included the rape of 22 women in Katasomwa, a town approximately 25 kilometers southwest of Kalehe in the South Kivu province. The crimes occurred from September 22 to 26, 2009. The soldiers were also convicted of pillage, destruction of schools, and abduction of children. Seven of the defendants were on the run during the trial. Of the four that were present, the highest-ranking soldier was the commander of the 85th Battalion based in Katasomwa, Lieutenant-Colonel Balumisa Manasse aka Dix Mille. Twenty-one survivors testified against their assailants. The trial was organized with logistical support from MONUSCO, the UN Joint Human Rights Office, UNDP, the Canadian International Development Agency, and Avocats Sans Frontières. All the convicted were sentenced to life imprisonment. All 11 of the convicted were condemned *in solidum* with the Congolese state to pay the following: US$2,000 to one victim, who lost 3 cows and 10 goats; US$75 to another victim, who lost one case of beer, one goat, and one pair of rain boots; and US$5,000 to each of the 22 victims for damages suffered.

**RMP N° 0933/KMC/10 & RP N° 132 (October 30, 2010)**
Seven women, who filed as civil parties, won convictions against five soldiers in the Congolese army (FARDC). The men were members of the 83rd battalion and were charged with crimes against humanity for committing mass rape in August 2009 in Mulenge, Uvira. All five of the condemned received life sentences, and the court ruled that the soldiers owed US$50,000 to each of the seven survivors for damages and prejudice suffered. The Congolese state was condemned *in solidum*, and the survivors would need to obtain a forced execution from the governor’s office of Uvira to get their reparations from the Ministry of the Treasury, via the office of the Minster of Justice in Kinshasa.
## Appendix VI: Reparation Typology

<table>
<thead>
<tr>
<th>Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Financial or pecuniary reparations</strong></td>
<td>Compensation through the allocation of a sum of money (NOTE: victims who received a stipend from ABA to travel to a court or to their offices have mistakenly viewed this money as their reparation.(^{177}))</td>
</tr>
<tr>
<td><strong>Reparation in kind</strong></td>
<td>Attempt to re-establish the original situation prior to the wrongful act being committed ((\text{restitutio in integrum})) (NOTE: there have been cases where a victim is awarded underwear, and a shirt.(^{178}))</td>
</tr>
<tr>
<td><strong>Equivalent reparation</strong></td>
<td>Sometimes mistaken for monetary reparation, but actually comprises the provision of benefits to the survivor through compensation (NOTE: HEAL Africa provides victims with free medical care if they have severe trauma, which does not include rape or HIV/AIDS contraction.(^{179}) If victims take their case to court they get their medical expenses paid for the duration of the court case, meaning victims may no longer have access to medical care once they receive a judgment.(^{180}) In many cases a victim would not have pursued a case if they had not been paid.(^{181}) While this is not considered to be a reparation it is in fact providing benefits to the victims through compensation.)</td>
</tr>
<tr>
<td><strong>Symbolic or ritual reparation</strong></td>
<td>Intended to indemnify the survivor for moral harm caused, particularly if the moral wrong is definite, personal, direct and comprised the violation of an interest which deserves a social safety net(^{182}) (NOTE: symbolic reparations have not been awarded in the DRC;(^{183}) high levels of poverty may explain why victims tend to ask for money, however, victims may not know that other forms of reparation are available.)</td>
</tr>
<tr>
<td><strong>Transformative reparation</strong></td>
<td>Intended to subvert instead of reinforce preexisting structural inequalities and thereby contribute to the consolidation of more inclusive democratic regimes</td>
</tr>
</tbody>
</table>
Barriers to Justice

**Appendix VII: List of Acronyms Used in this Report**

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABA</td>
<td>American Bar Association</td>
</tr>
<tr>
<td>ABA ROLI</td>
<td>American Bar Association Rule of Law Initiative</td>
</tr>
<tr>
<td>ASF</td>
<td>Avocats Sans Frontières</td>
</tr>
<tr>
<td>DRC</td>
<td>Democratic Republic of Congo</td>
</tr>
<tr>
<td>FDLR</td>
<td>Democratic Forces for the Liberation of Rwanda</td>
</tr>
<tr>
<td>GIL</td>
<td>Local economy office (<em>Guichet d’Économie Locale</em>)</td>
</tr>
<tr>
<td>ICC</td>
<td>International Criminal Court</td>
</tr>
<tr>
<td>MONUSCO</td>
<td>United Nations Organization Stabilization Mission in the Democratic Republic of the Congo</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-governmental organization</td>
</tr>
<tr>
<td>OHCHR</td>
<td>Office of the High Commissioner for Human Rights</td>
</tr>
<tr>
<td>SGBV</td>
<td>Sexual and gender based violence</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>UNDP</td>
<td>United Nations Development Program</td>
</tr>
<tr>
<td>UNFPA</td>
<td>United Nations Population Fund</td>
</tr>
<tr>
<td>WHO</td>
<td>World Health Organization</td>
</tr>
</tbody>
</table>
Appendix VIII: Sample Interview Questions - English

1. Is there anything about conducting this interview that concerns you?

2. Do you know of reparations being implemented from the mobile courts?
   
   *If yes:* What types and amounts? What, in your opinion, facilitated them being implemented?
   
   *If no:* What, in your opinion, might the impediments be to them being implemented?

3. What do you think are the factors that determine the types and amounts of reparations awarded in the mobile courts? For instance, social services, medical assistance, money and so forth.
   
   *If only monetary:* Why do you think awards have been monetary rather than in kind?

4. Do you have an idea of any correlation between what the victim requested, and what was awarded? Please do not provide any identifying information.

5. Do you think that who the victim is or who the perpetrator is has an effect on whether reparations are paid? Please don’t give us any identifying information.

6. Do you think that the amount or type of the reparation has an effect on whether it is paid?

7. What do you think is working or not working with the claims process?

8. On the question of funds for paying reparation, who is responsible in your opinion? Who should pay?
   
   Where does the money for reparations come from?

9. Are there particular policies or legislation that you think may potentially facilitate the implementation of reparations?

10. What effect, if any, do you think reparations have had on victims represented at the mobile courts?
   
   When not paid, have the court proceedings or the guilty verdict had an effect, in your opinion?

11. Do you think that the victims’ expectations of the process were met? Were yours?

12. Do you think that the reparation awards from the mobile courts have had a deterrent effect on sexual violence crimes?

13. What effect, if any, do you think the reparations from the mobile courts have had on victim’s families, or their communities?

14. Have there been any recent changes that have affected reparations in any way?

15. Is there anything important that you think I should know that I haven’t asked?
Appendix IX: Sample Interview Questions - French

1. Est-ce que vous avez des préoccupations relatives à cet entretien ?

2. Savez-vous si ces réparations ont été mises en œuvre après le jugement de l’audience foraine ?
   - Si oui : Quel type et quantité montant ? Qu’est-ce qui a, à votre avis, facilité leur mise en œuvre ?
   - Sinon : Quels sont, à votre avis, les obstacles à leur mise en œuvre ?

3. Quels sont les facteurs qui déterminent le choix du type et du montant des réparations ? Par exemple, des services sociaux, l’assistance médicale, de l’argent et ainsi de suite.
   - Si l’argent seulement : Pourquoi pensez-vous que la décision soit portée en faveur de l’argent et non les paiements en nature ?

4. Est-ce que vous pensez qu’il y a une cohérence entre ce qui a été exigée par la victime et ce qui a donné ? Merci de fournir les informations et données sans nommer les personnes et lieux.

5. Est-ce qu’il y a une corrélation entre l’identité (groupe ethnique, sexe, âge) des victimes, celle des prévenus et le caractère efficace du payement des réparations ? Merci de fournir les informations et données sans nommer les personnes et lieux.

6. Est-ce que vous pensez que le type ou le montant de la réparation a une influence sur la mise en œuvre des réparations ?

7. Selon vous, qu’est-ce qui fonctionne ou ne fonctionne pas dans le processus judiciaire ?

8. Sur la question relative aux fonds attributs au paiement, à votre avis, qui en est responsable ? Qui doit payer ? D’où viennent les fonds ?

9. À votre avis, y a-t-il des mesures politiques et législatives particulières qui pourraient faciliter la mise en œuvre des réparations ?

10. Est-ce que vous pensez que les attentes des victimes étaient satisfaites ? Est-ce que vos attentes étaient satisfaites ?

11. Pensez-vous que les réparations aient eu et ont toujours un effet dissuasif sur les violences sexuelles ?

12. À votre avis, quels effets, s’il y en a, les réparations ont eu sur les victimes représentées aux audiences foraines ? Quand elles n’ont pas mise en œuvre, pensez-vous que le jugement de culpabilité ait un effet ?

13. Et sur leur famille ? Sur leur communauté ?

14. Est-ce qu’il y a eu récemment des changements qui ont affecté la mise en œuvre des réparations ?

15. N’est-ce qu’il y a quelque chose d’autre d’important que nous devrions savoir, mais que nous ne vous avons pas demandé ?
Appendix X: Further Readings

i. Reparations for survivors of conflict-related sexual violence:


Barriers to Justice


ii. Other justice mechanisms and how they address Sexual Violence:


iii. Sexual Violence in the DRC (and in war more generally)


Barriers to Justice


iv. Justice and the Conflict in the DRC


v. Reparations and the Conflict in general

Appendix XI: Organizations contacted over the course of the study

The African Center for Peace and Democracy (ACPD), founded in 1982, works to bring about peace, democracy, and good governance in Central, East, and Southern Africa. They focus on areas where there is potential for violent conflict. Their approach is to learn about the conflicting interests in an area and work with the involved parties to come to a non-violent solution. ACPD does not take sides but instead provides a neutral ground for mediation for all stakeholders in the conflict. When peace is achieved and maintained, children can become educated, infrastructure can be developed, and individuals can enjoy their basic human rights.

The American Bar Association Rule of Law Initiative (ABA ROLI) is an international development program that promotes the rule of law by working with in-country partners to build sustainable institutions and societies. ABA ROLI works with in-country partners to build sustainable institutions and societies that deliver justice, foster economic opportunity and ensure respect for human dignity.

The International Center for Transitional Justice (ICTJ) works to help societies in transition address legacies of massive human rights violations and build civic trust in state institutions as protectors of human rights. In the aftermath of mass atrocity and repression, we assist institutions and civil society groups—the people who are driving and shaping change in their societies—in considering measures to provide truth, accountability, and redress for past abuses. They do this by providing technical expertise and knowledge of relevant comparative experiences in transitional justice from across the globe.

Lawyers Without Borders (ASF) is a global group of volunteer lawyers from around the world who offer pro bono service to rule of law projects, capacity building and access to justice initiatives. Their goal is to develop and provide legal support to Rule of Law projects and initiatives in the human rights and global capacity building sectors; this is achieved using lawyers serving pro bono whenever possible. This approach has proven to exponentially reduce costs to funders, in-country NGOs and legal communities in developing regions around the world.

Panzi Hospital is located in Bukavu, the largest city in South Kivu province in eastern Democratic Republic of Congo. It functions as a general hospital for the local population, but is mostly known for its support for survivors of sexual violence and women suffering from complex gynecological conditions such as obstetric fistula.

United Nations Development Program (UNDP) partners with people at all levels of society to help build nations that can withstand crisis, and drive and sustain the kind of growth that improves the quality of life for everyone. On the ground in 177 countries and territories, they offer global perspective and local insight to help empower lives and build resilient nations.

United Nations Organization Stabilization Mission in the DRC (MONUSCO) has been authorized to use all necessary means to carry out its mandate relating, among other things, to the protection of civilians, humanitarian personnel and human rights defenders under imminent threat of physical violence and to support the Government of the DRC in its stabilization and peace consolidation efforts.

The United Nations Population Fund (UNFPA) aims to achieve universal access to sexual and reproductive health (including family planning), promoting reproductive rights, reducing maternal mortality and accelerating progress on the ICPD agenda and MDG 5 and believes these are inextricably linked. UNFPA also focuses on improving the lives of youths and women by advocating for human rights and gender equality and by promoting the understanding of population dynamics. Population dynamics, including growth rates, age structure, fertility and mortality and migration have an effect on every aspect
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of human, social and economic progress. And sexual and reproductive health and women's empowerment all powerfully affect and are influenced by population trends.

**UN Women**’s Rule of law and Transitional Justice department has a portfolio on sexual violence and conflict. They have been trying to galvanize organizations towards reparations for sexual violence, in order to build the resource base needed to deliver reparations. They provide support for policy and programming, and country offices. In the DRC they worked on a project through the UN trust fund, in collaboration with PHR. The UN trust fund to end violence against women has funded victims of sexual violence.
Appendix XII: Research Team Biographies

Randi Aho is currently undertaking her graduate studies at the School of International and Public Affairs (SIPA) at Columbia University. She is a human rights concentrator specializing in conflict resolution and humanitarian affairs. Her particular interests are in transitional justice and post-conflict reconciliation mechanisms, with a regional focus on sub-Saharan Africa. Aho is the Departmental Research Assistant for the Human Rights Concentration at SIPA. Before studying at Columbia University, Aho was a postgraduate fellow with the Center for Victims of Torture and Midwest Coalition for Human Rights, and interned with organizations such as USAID and Human Rights Watch. She has field experience in the Democratic Republic of Congo, India, Japan, and Senegal. Aho speaks French and Japanese.

Julien Barbey is graduating from SIPA with an MIA with a concentration in International Finance and Economic Policy and a specialization in International Conflict Resolution. He holds an undergraduate degree from Columbia University (CC '09) and previously worked at the U.S. Attorney's Office for the Southern District of New York. He spent last summer in Colombia researching the impact of foreign gold mining projects on local societies with the Center for International Conflict Resolution and United Nations Development Programme. He hopes to continue working in transitional justice, peace building, and conflict resolution.

Katie Bowman graduates this year with a Master’s in International Affairs from Columbia University’s School of International and Public Affairs (SIPA), where she concentrated in Human Rights with a regional focus on Africa. Through a combination of classes, serving as the Co-President of SIPA’s Human Rights Working Group, and working as the Teaching Assistant for International Human Rights Law, Katie’s passion for human rights has grown exponentially. This passion was initially born out of Katie’s work at HEART (Health Education Africa Resource Team) in Nairobi, Kenya. Focusing on HIV/AIDS and women’s rights programs across the East African country provided Katie the unique opportunity to experience first-hand the intersections between human rights, development, and public health. She took this context with her to The Carter Center, where she interned with their Human Rights Program, working on rights within the framework of extractive industries in the Democratic Republic of the Congo (DRC). This DRC country expertise was a springboard for the work Katie has conducted for this project with the other members of the SIPA Capstone team. Their trip to Bukavu, South Kivu was enlightening and Katie is looking forward to further examining the challenges illustrated in this report.

Tiffany Esteb is currently finishing her graduate studies at the School of International and Public Affairs (SIPA) at Columbia University. She is a human rights concentrator specializing in international media,
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advocacy and communications. Her particular interests are in advocacy for trauma survivors of sexual violence, and prisoner rights, with a regional focus in sub-Saharan Africa. Tiffany speaks French.

**Winfreda Mbewe** is originally from Lusaka, Zambia and graduates this year with a Masters in Public Administration from Columbia University’s School of International and Public Affairs. Currently studying Human Rights and Management with a focus on gender and reproductive health rights, Mbewe is committed to the needs of women and children. In recent years, she has worked on development and microfinance projects in Lusaka, where she assisted widows and orphans impacted by the HIV/AIDS epidemic, as well as El Progresso, Honduras, and Puerto Plata, Dominican Republic. Prior to her development work, Mbewe enjoyed a career in the publishing industry at W.W. Norton, the country's oldest and largest employee owned publisher. While at Norton, Mbewe publicized numerous bestsellers including the award-winning *The Hemingses of Monticello* by Annette Gordon-Reed and worked with authors such as the former Amnesty International Secretary General, Irene Khan, and sociologist William Julius Wilson, to name a few.

**Anna Richardson** is finishing a dual degree in Human Rights and International Security, jointly overseen by Sciences Po, Paris and SIPA, Columbia University. She holds a BA Hons (1st Class) from King’s College, Cambridge. Her particular research interests lie in the role of international criminal justice in state building. Anna speaks French and German.

**Delaney Simon** graduates this year as a Master of International Affairs from Columbia University’s School of International and Public Affairs, specializing in International Security, Conflict Resolution, and Gender Policy. Her research focuses on women’s security in conflict and post-conflict contexts and she has published papers on issues related to gender and security and conflict prevention and post-conflict stabilization. She has worked for the Saltzman Institute of War and Peace Studies, the Center for International Conflict Resolution, and the United Nations Development Program in Colombia, where she researched the impact of extractive resources on conflict. Delaney holds a BA from Barnard College, Columbia University where she graduated cum laude and as a member of Phi Beta Kappa.

**Naoko Udagawa** is currently finishing her graduate studies at the School of International and Public Affairs (SIPA) at Columbia University. She is an international security policy concentrator specializing in conflict resolution. Her particular interests are in the role that legal reform and law enforcement play in peacebuilding.
3 See Appendix for extended bibliography.
4 See sample list of interview questions in appendix.
6 See Appendix I for matrix.
14 Interview with international organization C, April 2013, conducted in Bukavu, South Kivu.
18 Interview with Judge E, April 2013, conducted in Bukavu, South Kivu.
21 Ibid, 24.
22 Interview with Judge E, April 2013, conducted in Bukavu, South Kivu.
23 Interview with international organization B, April 2013, conducted in Bukavu, South Kivu.
24 Interview with Judge E, April 2013, conducted in Bukavu, South Kivu.
25 “La justice face à la banalisation du viol,” 64-7.
26 Article II of the 2005 Constitution specifies a change from 11 to 26 provinces scheduled to take effect within 36 months of the new constitution’s promulgation. However, this changeover has not yet been completed.
27 Congolese legal documents and literature refer to these courts by their acronym, TGI.
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29 As defined in Loi n.06/018 of 20th July 2006, Section II, Article 167. Atteinte à la pudeur translates to “attack against one’s modesty”; however it more accurately can be described as indecent assault or molestation—these would be sexual crimes of a lesser gravity under criminal law than rape involving penetration.
30 Like the TGI, these courts are referred to by their acronym, TMG.
31 Interviews with legal professionals G, April 2013, conducted in Bukavu, South Kivu.
32 “La justice face à la banalisation du viol,” 10.
33 See Article 258 of the Civil Code, Book III.
34 Loi nº 06/019 du 20 juillet 2006, Article 14(bis).
37 Ibid, 65.
38 Ibid, 64-6.
40 Ibid.
41 Interview with international organization B, April 2013, conducted in Bukavu, South Kivu.
42 Interviews with legal professionals G, April 2013, conducted in Bukavu, South Kivu.
44 Ibid.
45 Interview with representative for international organization K, April 2013, conducted in New York City, NY.
46 “Monitoring judiciaire 2010-2011,” 23.
47 “La justice face à la banalisation du viol,” 64-66.
48 Interview with DRC justice expert D, March 2013, conducted in New York City, NY.
49 Interview with DRC justice expert D, March 2013, conducted in New York City, NY.
50 Interview with international organization C, April 2013, conducted in Bukavu, South Kivu.
51 Interview with DRC justice expert D, March 2013, conducted in New York City, NY.
52 Interview with international organization J, April 2013, conducted in Bukavu, South Kivu.
53 Ibid.
54 Interview with international organization H, April 2013, conducted in Bukavu, South Kivu.
55 Interview with international organization G, April 2013, conducted in Bukavu, South Kivu.
56 Interview with international organization D, April 2013, conducted in Bukavu, South Kivu.
57 Interview with international organization J, April 2013, conducted in Bukavu, South Kivu.
58 Ibid.
59 Ibid.
60 An expert interviewed discussed a statute in Shabunda depicting a woman who had been raped, which had been instituted to provide symbolic redress for survivors of sexual violence. The expert noted, however, that victims did not see the statute as redress for the abuse they had suffered and explained that they would have preferred money or services instead.
61 Interview with DRC justice expert D, March 2013, conducted in New York City, NY.
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68 Interview with international organization B, April 2013, conducted in Bukavu, South Kivu.
70 Interview with international organization B, April 2013, conducted in Bukavu, South Kivu.
71 Interview with international organization G, April 2013, conducted in Bukavu, South Kivu. The organization expressed confusion about this trend, but recognized it nonetheless.
72 Interview with international organization D, April 2013, conducted in Bukavu, South Kivu.
73 Interview with international organization B, April 2013, conducted in Bukavu, South Kivu.
74 Interview with DRC justice expert D, March 2013, conducted in New York City, NY.
75 Interview with international organizations J, April 2013, conducted in Bukavu, South Kivu.
76 Interview with Judge B, April 2013, conducted in Bukavu, South Kivu.
77 Interview with representative for international organization I, 2013, conducted in New York City, NY.
78 Interview with representative for international organization I, February 2013, conducted in New York City, NY.
79 Interview with international organization C, April 2013, conducted in Bukavu, South Kivu.
80 Interview with international organization D, April 2013, conducted in Bukavu, South Kivu.
81 Interview with international organization C, April 2013, conducted in Bukavu, South Kivu.
82 Ibid.
83 Ibid.
84 “Monitoring judiciaire 2010-2011,” 56.
85 Interview with Judge B, April 2013, conducted in Bukavu, South Kivu.
86 “Monitoring judiciaire 2010-2011,” 12, 39.
87 Ibid. 48.
88 Interview with Judge E, April 2013, conducted in Bukavu, South Kivu.
89 Ibid.
90 Interview with international organization E, April 2013, conducted in Bukavu, South Kivu.
91 Ibid.
92 Ibid.
93 “La justice face à la banalisation du viol,” 10.
94 Ibid., 14, 71-3.
95 Interview with Judge D, April 2013, conducted in Bukavu, South Kivu.
96 “Monitoring judiciaire 2010-2011,” 45.
97 Interview with representative for international organization I, February 2013, conducted in New York City, NY.
98 Interview with representative for international organization I, 2013, conducted in New York City, NY.
99 Interview with international organization C, April 2013, conducted in Bukavu, South Kivu.
100 Interview with DRC justice expert D, March 2013, conducted in New York City, NY.
101 “Monitoring judiciaire 2010-2011”
102 Interview with international organization C, April 2013, conducted in Bukavu, South Kivu.
103 Ibid.
104 Interview with international organization G, April 2013, conducted in Bukavu, South Kivu.
105 Ibid.
106 International Bar Association, ‘Rebuilding Courts and Trust: an assessment of the needs of the justice system in the DRC’, 2009
107 Interview with representative for international organization B, March 2013, conducted in New York.
108 Interview with Judge H, April 2013, conducted in Bukavu, South Kivu.
109 Ibid.
110 Interview with Judge C, April 2013, conducted in Bukavu, South Kivu.
111 Interview with representative for international organization I, 2013, conducted in New York City, NY.
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112 Interview with Judge H, April 2013, conducted in Bukavu, South Kivu.
113 Interview with Judge E, April 2013, conducted in Bukavu, South Kivu.
114 Interview with representative for international organization K, April 2013, conducted in New York City, NY.
115 Interview with Judge A, April 2013, conducted in Bukavu, South Kivu.
116 Ibid.
117 Interview with Judge H, April 2013, conducted in Bukavu, South Kivu.
118 Interview with international organization C, April 2013, conducted in Bukavu, South Kivu.
119 Interview with Judge C, April 2013, conducted in Bukavu, South Kivu.
120 Ibid.
121 Interview with Judge C, April 2013, conducted in Bukavu, South Kivu.
122 Interview with international organization C, April 2013, conducted in Bukavu, South Kivu.
123 Interview with representative for international organization I, February 2013, conducted in New York City, NY.
124 Ibid.
125 Ibid.
126 Interview with Judge E, April 2013, conducted in Bukavu, South Kivu.
127 Interview with Judge D, April 2013, conducted in Bukavu, South Kivu.
128 Ibid.
129 Interview with international organization D, April 2013, conducted in Bukavu, South Kivu.
130 Ibid.
131 Interview with Judge E, April 2013, conducted in Bukavu, South Kivu.
132 Interviews with Judges I, April 2013, conducted in Bukavu, South Kivu.
133 Interview with Judge E, April 2013, conducted in Bukavu, South Kivu.
134 Interview with international organization B, April 2013, conducted in Bukavu, South Kivu.
135 Interview with international organization H, April 2013, conducted in Bukavu, South Kivu.
136 Interview with international organization F, April 2013, conducted in Bukavu, South Kivu.
137 Interview with international organization D, April 2013, conducted in Bukavu, South Kivu.
138 Interview with international organization B, April 2013, conducted in Bukavu, South Kivu.
139 Interview with international organization A, April 2013, conducted in Bukavu, South Kivu.
140 Interview with international organization G, April 2013, conducted in Bukavu, South Kivu.
141 Ibid.
142 Ibid.
143 Interview with international organization H, April 2013, conducted in Bukavu, South Kivu.
144 Interview with Judge E, April 2013, conducted in Bukavu, South Kivu.
145 Ibid.
146 Interview with international organization D, April 2013, conducted in Bukavu, South Kivu.
147 See “Pre-trial.”
149 OHCHR, "Remedies and Reparations."
150 Ibid.
151 Interview with international organization A, April 2013, conducted in Bukavu, South Kivu.
152 OHCHR, "Remedies and Reparations."
153 Interview with international organization C, April 2013, conducted in Bukavu, South Kivu.
154 Interview with international organization F, April 2013, conducted in Bukavu, South Kivu.
155 Interview with Judge A, April 2013, conducted in Bukavu, South Kivu.
156 A UNDP report shows that, on average, cases usually exceed the three-month legal limit by several weeks. “Monitoring judiciaire 2010-2011,” 46-8.
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157 Article 135 of the Criminal Procedural Code allows for the presiding judge to issue a certificate of indigence, but the post-trial bureaucracy often deters victims from doing so (PNUD study, p. 58-9).
158 Interview with international organization C, April 2013, conducted in Bukavu, South Kivu.
159 Interview with Judge H, April 2013, conducted in Bukavu, South Kivu.
160 Interview with international organization D, April 2013, conducted in Bukavu, South Kivu.
161 Interview with international organizations E, April 2013, conducted in Bukavu, South Kivu.
162 Interviews with gender rights experts F, April 2013, conducted in New York City, NY.
163 Ibid.
164 Interview with international organization C, April 2013, conducted in Bukavu, South Kivu.
165 Interview with Judge A, April 2013, conducted in Bukavu, South Kivu.
166 Interview with international organization H, April 2013, conducted in Bukavu, South Kivu.
167 Interview with international organizations F, April 2013, conducted in Bukavu, South Kivu.
168 Interview with international reparations expert C, April 2013, conducted in New York City, NY.
169 Interview with representative for international organization I, 2013, conducted in New York City, NY.
170 Interview with representative for international organization I, 2013, conducted in New York City, NY.
171 Interview with international organization J, April 2013, conducted in Bukavu, South Kivu.
172 Ibid.
173 Interview with international organization B, April 2013, conducted in Bukavu, South Kivu.
174 Interview with representative for international organization K, April 2013, conducted in New York City, NY
175 Ibid.
176 Interview with representative for international organization K, April 2013, conducted in New York City, NY
177 Interview with DRC justice expert D, March 2013, conducted in New York City, NY.
178 See Appendix I for matrix
179 Interview with DRC justice expert D, March 2013, conducted in New York City, NY.
180 Ibid.
181 Ibid.
182 Interview with DRC justice expert D, March 2013, conducted in New York City, NY.
183 Interview with Judge E, April 2013, conducted in Bukavu, South Kivu.