

# Women, peace and security and the DRC: Time to rethink wartime sexual violence as gender based violence?

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## **Women, peace and security and the DRC: Time to rethink wartime sexual violence as gender based violence?**

### ***Introduction***

Numerous feminist studies have highlighted the extensive violence and insecurity that women experience during armed conflicts and transition (Ní Aoláin, Haynes and Cahn 2011). Women, in conflicts around the world, are killed, mutilated, tortured, imprisoned, raped, kidnapped, trafficked, sold into slavery, forced into prostitution, displaced, dispossessed and impoverished. In addition to direct violence, conflicts typically exacerbate structural forms of violence and heighten economic hardship, a phenomenon often termed by feminists as economic violence (True, 2012; Mertus, 2003). Women, particularly those who have lost their male relatives, are more likely to be dispossessed and stripped of lands and properties. Displacement in particular, pushes women deeper into poverty, insecurity and exploitation (UNHCR 2014; Giles 2013). Conflicts tend to reinforce already existing patriarchal structures and exacerbate gender discrimination (Ní Aoláin 2011). Women particularly during post-conflict transition often suffer from exclusion from decision making and experience a backlash against their rights (Aroussi 2015; Pankhurst, 2007; Al-Ali 2005). While women are involved during conflicts in war and peacemaking efforts and in managing the survival of their communities they are typically excluded from participating in formal peace negotiations, transitional and future government's institutions and from the reconstruction programmes (Aroussi 2015). The harm of exclusion magnifies women's experiences of gender harm and sustains women's subaltern status in transitional societies. Various feminist scholars have also highlighted the continuum of gender harm in which women live in peace, conflict and post-conflict societies and the interconnectedness between the various forms of violence (True 2012; Enloe 2010; Cockburn 2004). Feminists have constantly pointed out to the organic link between women's lack of access to decision making and resources such as lands, properties, credit, employment, education and their vulnerability to violence during conflicts and in the so called "peace time" (Aroussi 2015; True 2012; Ní Aoláin, Haynes, And Cahn 2011).

However, while gender harm in conflicts is extensive, during the past two decades we have witnessed an unprecedented narrow focus on sexual harm in international law, diplomacy and policy making arenas. This has been particularly the case within the United Nations Security Council's agenda on women, peace and security (WPS). The UN agenda started with the adoption of resolution 1325 in October 2000. This resolution represented the first instance in which the UN Security Council recognised women beyond the category of victims as political actors and essential partners capable of contributing to the maintenance of international peace and security. The resolution introduced a holistic agenda to address the needs of women in armed conflicts, peace processes and post-conflict reconstruction and to involve and support women's participation in all their peace activities (Aroussi 2015). However, since June 2008, the UN Security Council adopted a series of new resolutions on women, peace and security that almost exclusively focus on the issue of sexual violence in armed conflicts. These are resolutions 1820 (2009); 1888 (2009), 1960 (2010) and 2106 (2013). In this article, I argue that this narrowing of the agenda adopted by resolution 1325 from women's participation and empowerment to women's as victims of conflicts along with the preoccupation with addressing sexual violence as a weapon of war instead of the myriads of gender harms have had a detrimental impact on countries experiencing or emerging from conflict. In particular, I argue that the emphasis on sexual harm has obscured the extent and multiplicity of women's suffering and led to the de-prioritisation of women's other needs during the transition. In this article, I look particularly at the East of the Democratic Republic of the Congo to study how the increasing focus on sexual violence has impacted on women in this region. This article is based on extensive fieldwork conducted in the summer of 2015 in the area of South Kivu using in-depth interviews, participant observations, focus groups and informal discussions with 84 participants including survivors of sexual violence, members of communities, community and religious leaders as well as with other stakeholders including government officials, legal and health professionals, staff of international organisations and members of various local NGOs. To avoid to continuously referring to my sources in countless endnotes as "author's confidential interview and field observations" I have made the decision to only reference open sources. Hence, this article should be read with the understanding that any information, which is not referenced in the text, is based on confidential fieldwork materials, interviews, field observations

and informal conversations. The first section of this article starts by examining the issue of sexual violence and how it has been framed within the agenda on women, peace and security. In its second section, the article discusses the Eastern DRC as a case study. In doing this, the article first examines how the sexual violence frame was used to shape the priorities and contour of international peacebuilding efforts in the DRC. The article then moves to discuss the relative progress achieved through the international emphasis on the question of sexual harm and highlight limitations of the sexual frame in driving and shaping the international agenda on the ground. The final section of the article closes with concluding reflections.

### ***Sexual violence and the UN agenda on women, peace and security***

During conflicts, the vulnerable civilian population and particularly, women and girls, are targeted for sexual violence. While most studies of wartime sexual violence relates to conflicts where sexual violence was thought to be widespread, crimes of sexual violence are committed in all types of conflicts all around the world (Cohen and Nordas 2014). It is however the case that, in most these studies, we find staggering lacks of reliable quantitative data on the extent of this problem during conflicts and in their aftermaths (Cohen and Nordas 2014). Sexual violence has detrimental physical, psychological, economic and social consequences for the victims, their families and communities that persist for decades. Survivors are often left suffering from sexual traumas, including irreparable vaginal tearing, fistulas, uterine problems, infertility as well as other physical injuries sustained during the attacks caused by bullets, machete and severe beatings. Sexually transmitted infections (STIs) including with the human immunodeficiency virus (HIV) are also common in raped victims. In many countries where HIV is prevalent, the rate of infections among soldiers and armed militia groups is generally high (Ba et.al. 2008). Hence, when troops and armed rebels engage in the rapes and sexual exploitation of the civilian population, the risk of infection with HIV transmission is much greater particularly when injuries such as vaginal fistulae and trauma are inflicted on the genital area (DeLargy 2013; Supervie, Halima, and Blower 2010). The psychological and mental health consequences of sexual violence are unfathomable and often intergenerational (WHO 2012). Those family and community members who are made to watch the violence are also at a considerable risk of psychological damage. The social consequences of sexual violence are significant. Victims of rape

are commonly disowned by their families, young and unmarried girls are typically considered as 'spoiled' and children born out of rape are very often rejected by the community. This is especially true given that the stigma and shame associated with rape in peacetime continues during conflicts even in cases where sexual violence is widespread. Sexual violence has also profound economic consequences condemning its victims to a life of poverty and increased vulnerability. The economic aspect of sexualised violence is complex but often overlooked. Pillage, extortions and dispossessions are frequently committed alongside rapes. Expensive medical treatments required for victims of rape typically result a spiral of debts. When victims are rejected by their spouses and communities and unmarried girls are no longer considered as worthy of marriage by suitors they generally lose all forms of actual or potential financial support. All of these factors compounded deepen the poverty and lead to the destitution of victims and their families.

Sexual violence is undoubtedly one of the key issues on the UN agenda on women, peace and security from its inception. Resolution 1325 (2000, para 10 and 11) recognises that women are being targeted for sexual violence and requires, member states and all those involved in peace activities to protect women from sexual violence and to prosecute those responsible for crimes of sexual violence against women and girls. However, resolution 1325 was initially widely celebrated by feminists and women's activists because of its potential for transforming gender unequal relationships in transitional societies and increasing women's equal participation and full involvement particularly at leadership positions in national, regional and international institutions and in future governance and transitional institutions. The underlying aim of resolution 1325 was not simply to protect women during armed conflicts but to promote gender equality and women's empowerment during peace processes and post-conflict reconstruction (Aroussi 2015; Otto 2009). However, the years that followed the adoption of resolution 1325 saw greater focus on the issue of sexual violence in armed conflict and further pressure on the Security Council to address it in earnest in subsequent resolutions on WPS. In four out of the seven new resolutions on WPS, sexual violence figured as the most, if not the only, important priority for the Council and Member States.<sup>1</sup> In particular, the issue of sexual violence in these new resolutions was reframed primarily as a peace and security concern requiring international security responses rather than as a gender equality issue. For instance, in resolutions 1820 (2008, para 1) and

1888 (2009, para 1) the Security Council acknowledges that sexual violence in armed conflict, when used strategically “*to humiliate, dominate, instil fear in, disperse and/or forcibly relocate civilian members of a community or ethnic group*”, represents a threat to international peace and security, and expresses its readiness and intention to take measures against the perpetrators including the imposition of sanctions and the authorisation of use of force (Resolution 1820, para 1 and 5). The Security Council in the new resolutions on WPS also establishes a listing mechanism to name those parties to armed conflicts that are credibly suspected of committing acts of sexual violence and to impose targeted sanctions against them (Resolution 1888 2009, para 27; Resolution 1960 2010, para 3, 4, 7 and 18). By flexing its muscles to pursue and punish the perpetrators, the Security Council has reinvigorated and re-invented the agenda on WPS into hard core peace and security (Aroussi 2015). While the reframing of sexual violence as a peace and security concern, may have resulted in Member States taking more beefy responses against the perpetrators, it did create a false distinction between sexual violence committed as a weapon of war and everyday sexual and gender based violence during conflicts and transition (Grewal 2010). The framing of sexual violence as a peace and security issue and as a strategy of warfare obscures the fact that gender inequality remains the root causes and consequences of sexual violence during war and in the so-called peacetime. The reframing of sexual violence as a peace and security concern and the increasing focus on sexual harm also have the effect of prioritising certain harms and certain victims in the context of humanitarian emergencies. For instance, Resolution 1820, in paragraph 3, calls for “*the evacuation of women and children under imminent threat of sexual violence to safety*” but it does not equally require the evacuation of women and children under eminent threat of other forms of violence or the evacuation of men facing the same threat of sexual violence into safety.

In the new resolutions on WPS we have also witnessed an increasing emphasis on criminal accountability and justice for wartime sexual violence. This came at a time of growing emphasis at the global level on criminal prosecutions and major developments in international criminal law in terms of norms and practices of accountability for crimes against international law in the International Criminal Court and other international tribunals and special courts (Ní Aoláin, F. 2012; Mouthaan 2011; Halley 2008). The new resolutions on WPS confirm and reiterate concepts of justice developed

by international law in terms of prohibition on amnesty and the need for prosecution of crimes of sexual violence that amount to crimes against international law (Resolution 1820 (2008) para 4, Resolution 1888 2009 para (6, 7, 8 and 21). Admittedly, the new resolutions and particularly resolutions 1888 and 2106 take into considerations the needs of victims of sexual violence and innovatively call for the adoption of “*holistic responses*” to victims of sexual violence (resolution 1888 2009 para 8). For instance, resolution 1888 requires the provision of legal assistance and access to comprehensive healthcare for survivors of sexual violence that includes sexual and reproductive health and psychosocial and psychological support (Resolution 1888 2009; para 12, 13 and 17). Resolution 2106 emphasises the need to ensure that survivors of sexual violence must receive redress for their suffering including reparations, economic and social reintegration, livelihood support and other multi-sectoral services (Resolution 2106 2010, para 19 and 20).

While, the UN resolutions on women, peace and security have come a long way in terms of justice and accountability for sexual violence, they remain significantly limited in their responses to women survivors and severely detached from the reality and lived experiences of women in conflict and post-conflict societies. In dealing with justice for sexual violence, the resolutions reproduce international law hierarchical distinction between victims of sexual violence as a targeted strategy during war and other victims of sexual and non-sexual violence (Aroussi 2015; Grewal 2010). This hierarchy of harm is evident in the resolutions’ on WPS call for the need for criminal accountability for crimes of sexual violence of international character i.e. sexual violence that amount to war crimes, crimes against humanity and genocide but also in the call for the adoption of a “holistic approach” to victims of sexual violence particularly as a weapon of war rather than for women victims of armed conflicts without distinction. The increasing focus on sexual violence within and outside the agenda on women, peace and security and its rebranding as a global peace and security concern and a foreign policy priority inevitably has implications for women in conflicts and transitional societies like the Democratic Republic of the Congo where services are scarce and the list of competing priorities for donors funds and programming are immense.

### *The Democratic Republic of the Congo*

In 1996–1997, Laurent Kabila’s attempt to depose the dictator Mobutu Sese Seko led to a full blown civil war that lasted from 1998 to 2003. The war was complex, involving deep rooted tensions both at the macro and micro levels, and major strife over ethnicity and access to lands and resources that goes back a long way to the time when the Belgian colonisers in 1930s moved Hutus populations from Rwanda to the Kivus area (Autesserre (2010, 2). After the Rwandan genocide, the situation in the Eastern DRC was exacerbated when over two million Rwandan Hutus arrived to the Kivus as refugees. Soon the conflict reached a regional dimension and the spill-over from the conflict drew in up to fourteen different foreign armies and destabilising many countries from around the Great Lakes region (Zongwe 2013). The DRC peace negotiations that started in 2001 led to the adoption of the 2002 Sun City agreement that set up a power sharing framework whereby the rebel leaders would gain access to important positions of power within the transitional government and the military (Davis 2013). However, this agreement was unable to quell the babbling tension in the Eastern region, an area that is extremely rich in natural resources and minerals. Following the election in 2006, a splinter group from the Rassemblement Congolais pour la Démocratie (RCD), led by General Laurent Nkunda formed The Congrès National pour la Défense du Peuple (CNDP) and started a Tutsi rebellion in the Kivus region of the eastern DRC. The rebellion was backed by the Rwandan Government and the Tutsi businessmen and military commanders in North Kivu who believed that the dysfunctional Congolese Hutu led government will not be able to protect their security, investments, and political power (Stearns 2012). In January 2009, the Ihusi deal between the DRC and Rwanda was reached. In exchange for the ability to pursue the Democratic Forces for the Liberation of Rwanda (FDLR) militants and the Interahamwe fighters in the DRC, Rwanda agreed to arrest and hand in to the ICC General Nkunda. On 23 March 2009, the CNDP signed a peace treaty with the DRC government in which it agreed to become a political party and to have its soldiers and top command integrated into the national army. However, the new leader of the ex-CNDP, Bosco Ntaganda, and troops loyal to him, mutinied in April 2012 and formed the rebel military March 23 Movement (M23), claiming a violation of the 2009 peace treaty by the government (Davis 2013). However, in 2013 a military operation by the United Nations Mission for the Stabilisation of the Democratic Republic of the

Congo (MONUSCO) gave the government the upper-hand over the M23 Mouvement. The defeat of the M23 in November 2013 forced the rebels to surrender and engage in the Kampala negotiations that culminated in the adoption of a new peace agreement in December 2013.<sup>2</sup>

The long wars in the DRC were brutal generating unprecedented level of suffering, leading to the slaughter of millions of innocent people and widespread abuse against civilians. In the Eastern region 81 percent of the population had to flee with internal displacement reaching 2,658,000 in January 2015 (UNHCR 2015). Life there has deteriorated significantly and the population remains at the mercy of humanitarian aid. In 2014, the DRC ranked 186 out of 187 countries in terms of its Human Development Index (UNDP 2014). The State in the DRC, as Lemarchand (2010, 125) points out is “in essence non-existent”. Infrastructure and services in the East are absent. Roads and transport networks are severely lacking and most have been destroyed by the conflicts making travel in the vast and inaccessible territory of Congo very difficult and out of reach financially for most of the population. The health facilities in the country have also suffered significantly from lack of investments and many of the existing health infrastructures has been destroyed or debilitated by deliberate repeated attacks from the various belligerent factions (UNFPA 2011). The expenditure on health in the DRC according to World Health Organisation is only 3.5 % of the total GDP such figure would be much lower in the eastern part of the country (WHO 2015). Most State employees, in the East including teachers, nurses and doctors, police and security and justice services are very poorly paid or not paid at all. Public institutions are not allocated adequate funding to carry-on their day-to-day activities. All of this, has meant that the cost of accessing basic services such as education, health and formal justice has to be borne by the users of these services. The country also suffers from widespread corruption ranking 154 out of 175 countries globally in terms of the level of corruption (Transparency International 2014).

Women’s experiences of the continuous conflict in the Eastern DRC were marked by psychological trauma, threat to life, loss of loved ones, extreme brutality, dispossession, displacement, financial hardship, and lack of access to basic services. Women bear acute caring and childbearing responsibilities in the Eastern DRC. They are the ones who work the fields, sell the crops in the market and ensure the survival of their families. With forced displacement and pauperisation, women

have lost access to precious lands and resources and became reliant on humanitarian aid provided by international and local organisations. Many women were forced to the informal economy and particularly cross-border trading as a way of survival which leaves them vulnerable to systematic abuse and harassment at the border, including corruption and payment of illegal taxes (International Alert 2014).

The conflicts in the DRC have significantly impacted on women's health. For instance, DRC has one of the highest fertility rates globally and a limited access to reproductive health (Kidman, Palermo and Bertrand 2015). As mentioned earlier, health facilities in the region lack basic supplies and usually require patients to purchase the materials needed for the medical intervention such as soap, gloves, a razor blade and a sheet, to ensure a clean delivery (UNFPA 2011). As a result, the country is fifth globally in terms of maternal mortality which accounts for half of all female deaths between the age of 15 and 49 (WHO 2015, 2014; UNFPA 2011). These figures are at the national level but in the East of the country, the situation would be much worse due to the limited health infrastructure and investment.

Sexual violence has been a defining feature of conflicts in the DRC since the beginning of the Congo global war (Autesserre 2012). Sexual violence, in the DRC, was committed by all armed groups including government forces as a way to intimidate and punish communities for their real or perceived collaborations with the opposing armed factions (Meger 2010). Often sexual violence by armed perpetrators is committed alongside looting (Bartel et.al. 2013). Many victims were repeatedly attacked and subjected to sexual violence and loss of their loved ones before they finally decided to leave their homes and lands (Autesserre 2010, 2). Yet sexual violence in the DRC is not only limited to armed groups, but is also widely committed by civilians as a crime of opportunity (Meger 2013) and within families including by intimate partners (Paterman, Palermo and Bredenkamp 2011). The continuous conflicts in the DRC have also exacerbated prostitution and underage sexual exploitation. Women and young girls are pushed to the sex trade due to limited economic opportunities and rejection by their communities and stigma in cases of victims of rape (Notar 2006). As a result, illegal brothels mushroomed in the East of the DRC and street prostitution is particularly rife. While sexual violence is widespread in the DRC, attitudes to rape and raped victims remain very stigmatising. The

idea that rape is the worst fate for women and that raped victims are unmarriageable is widely adhered to and the situation is worse for unmarried victims of rape including children who become seen as worthless. During the course of this research in South Kivu, victims of rape were very frequently described as worthless, damaged or destroyed with no future or prospect by their own parents and communities.

### ***The sexual violence frame in the DRC***

While sexual violence is undeniably a major issue in the DRC, it is neither the only priority for women nor a new or unprecedented phenomenon in the Congo. In fact, as Autesserre (2012, 13) points out, sexual violence existed at higher levels and in equally brutal manner during the first wars of the Congo from 1994 and 2003. What has changed, since then, was the international attention to paid to it in international media and policy making forums particularly since the adoption of resolution 1820 in June 2008 and resolution 1888 in 2009. During the open debates that preceded the adoption of these two resolutions, presided over by the United States, the DRC was continuously cited as the most prominent example of where sexual violence as a weapon of war is widespread and used as a justification for why the international community should take a stand on this issue.<sup>3</sup> Attention to rape in the Congo has further increased following the high profile visits by Hillary Clinton and Margot Wallström to East of the Congo in 2009 and 2010 respectively where they particularly focused on the issue of sexual violence (Autesserre 2012, 13). During her official visit to the region to investigate an incident of massive rape by rebel fighters Wallström, then the UN Special Representative on Sexual Violence in Conflict, has labelled the Congo as the ‘rape capital of the world’ (BBC 2010). This label, which many of my Congolese participants found as simplistic, highly stigmatising and offensive, has been since used by journalists, advocates, aid workers, policy makers and scholars to describe the Congo. The focus on the Congo as the locus of sexual violence has continued ever since and was sustained by celebrities’ visits to the area such as Angelina Jolie, Jill Biden, Michael Cobbler and Charlie Theron. The sexual violence frame for the Congo is evident in the mainstream western media attention to this country where stories about the Congo only make it to the headlines where rape is involved. This increased attention to rape in the Congo as Autesserre (2012, 13) has pointed out has “*entrenched sexual violence as the frame to use when thinking about the Congo*”. Framing is

significantly important in drawing the boundaries of international intervention in aid driven economies. Framing does not only affects what issue gets noticed and what falls through the cracks but also impact on how and which issues gets addressed in peacebuilding strategies. This is particularly so, given that international peacebuilding practices are largely driven by the propensity for uncomplicated narratives and simple solutions (Autesserre 2012, 2010).

In the case of the Congo, the simple narrative of rape as a weapon of war and ending impunity as the way to combat it has been predominant in the analyses, reports, policies and programmes on the Congo. While this framing of sexual violence has been a catalyst for galvanising international efforts to address the issue on the ground it has arguably restricted the scope of intervention to the frame with limited results.

In 2013, the issue of sexual violence as a weapon of war was instrumental in the deployment of international military support to defeat the M23 by the MONUSCO mission. The UN Security Council through resolutions 2053 (2012) and 2098 (2013) created and mobilised specialised “intervention brigade” of 19,815 troops to support the government forces and defeat the M23. In these resolutions, we see direct citation of the UN resolutions on women, peace and security and of the issue of sexual violence as one of the justifications behind this military operation. In addition to military mobilisation, various international funders such as the European Union, Belgium, Sweden and Canada have financed several mobile court hearings in various areas of the territory and provided technical and logistical support to help improve prosecutions of crimes of sexual violence particularly by State actors. Various international funders have also been involved in funding health services provisions including psychosocial support for victims of sexual violence particularly through the Panzi Hospital in South Kivu. As a result, the quality of medical and psychosocial care has noticeably improved for victims who are able to access the Panzi hospital for treatment. For instance, at Panzi, to accommodate a greater number of victims of sexual violence, staffing has increased from 3 to 10 for social assistants. The number of doctors dealing with SV has also increased to 7 including 3 permanent doctors and one medical legal doctor. A new large scale project funded by the World Bank is also currently underway in the East of the DRC to provide access to medical care and psychosocial support for victims of sexual violence in health centres in the four territories of Walungu, Kamituga,

Plaine de la Ruzizi and Minova. The emphasis on ending impunity for sexual violence has also led to the proliferation of legal clinics to advise and refer victims of sexual violence to health and legal services in various areas in South Kivu particularly in the four territories of Uvira, Walungu, Kalehe, and Mwenga.

The sexual violence frame has also influenced the government to take a number of actions that would give impression of serious engagement in the fight against sexual violence. These for instance, include the prosecution during 2013 and 2014 of 196 members of the national defence forces and national police and other States agents of sexual violence including several high ranking officers such as General Kakwavu Lieutenant and Kernal Bedi Mobuli Engangela (UN Secretary General 2014, 2015). In July 2013, the Prosecutor General of the armed forces issued 13 international arrest warrants and extradition requests for war crimes and crimes against humanity, including sexual violence, against alleged members of M23 movements including President Jean-Marie Runinga and Brigadier General Bosco Ntaganda (UN Secretary General, 2014). The DRC government, in 2014, also ordered the payment of reparations to 30 survivors of the 2003 mass rape in Songo Mboyo, Equateur province, for the value of US\$5,000 for rape, US\$200 for looted property and an additional 5,000 when the rape has resulted in the loss of life (UN Secretary General, 2015; Monusco 2014). Other measures worth noting include the appointment of Madame Janine Mabunda the Presidential Adviser on Sexual Violence and Child Recruitment in the DRC to provide leadership and coherence on the issue of sexual violence (UN Secretary General 2015, 7) and the creation of focal points for coordinating actions on combatting impunity for sexual violence within the ministries of justice and gender and health.

### ***The limitations of the Sexual violence frame***

Despite all the progress discussed above, the focus on sexual violence did not really deliver in the case of the Eastern DRC. The framing of sexual violence as a weapon of war and the emphasis on ending impunity has mainly resulted in militaristic and legalistic strategies that did not adequately address the problem of sexual harm let alone the broader gender harm that women experience in the East of the DRC. Responses to the rape crisis in the Congo were largely focused on military strategies to defeat and weaken the various armed groups as well as strategies to bring some of those responsible

to justice. While the military operation by MONUSCO led to the defeat of the M23, various other small armed groups remain still active particularly around the mines and frequently terrorising the neighbouring population including through the use of sexual violence. In fact, since 2013, there was a resurgence of violence by splinter armed groups and even an increase in the number of rapes by 13% over the previous year (UN Secretary General 2014, 8). From January to September 2014, the United Nations Population Fund (UNFPA) recorded 11,769 cases of sexual and gender-based violence in the Eastern provinces of North Kivu, South Kivu, Orientale, Katanga and Maniema (UNFPA, 2015). The UN Secretary General in the annex of his 2014 report on Conflict Related Sexual Violence as required by resolution 1960, has named a total of 12 armed groups operating in the region who are credibly suspected of committing rapes on large scales in addition to the national army and the national police forces (UN Secretary General 2014, 32).

The focus on rape as a weapon of war in the DRC has obscured the fact, that sexual violence in the DRC is not just a military strategy but an everyday reality that women and children but also men have been enduring for over a decade. For instance, in his 2015 report, the UN Secretary General (2015, 8) noted that almost 70 percent of cases of sexual violence in the DRC continue to be committed by rebels with the remaining 30 percent of cases being committed by the government forces. However, what the UN Secretary General has failed to consider is the large scale nature of sexual violence committed in the Congo by civilians including demobilised members of armed groups due to the failure of DDR and SSR processes (Baaz and Eriksson Stern 2013) but also by intimate partners (Paterman, Palermo and Bredenkamp 2011). Research on sexual and gender based violence in the DRC suggests that the greatest threat of violence for women is from intimate partner's violence with approximately 35% of women reporting intimate partner sexual violence making it the most pervasive form of violence against women (Kidman, Palermo and Bertrand 2015; Tlapek 2014; Peterman, Palermo, and Bredenkamp 2011). The prioritisation of combatting rape as a military strategy has also meant that the extensive sexual exploitation and harassment of women and children in the DRC in the schools, streets, the workplace and illegal brothels remain unaddressed. Rape in the DRC today is a social phenomenon rather than a simple military or conflict related issue. Gender inequality, hyper-masculinity and the normalisation of violence within societies are at the root causes of rapes in the

Congo. To address this social phenomenon a much larger intervention focused on empowering women and eradicating gender inequality is sorely needed.

The focus on ending impunity and prosecutions has also failed to deliver in the case of the DRC. The widespread nature of sexual violence in the region and the lack of infrastructure, judicial and criminal justice capacity and the political will to end impunity have meant that most crimes of sexual violence in the DRC remain never prosecuted or punished. Many of the participants in this research have criticised the Congolese government's unwillingness to provide essential funding to institutions such as the police and the criminal justice machinery to enable them to carry on their day-to-day work. The police force including the Specialised Sexual Violence Unit lack the manpower, resources, funding and technical and logistical expertise to cope with the extent of sexual violence cases in the vast region of South Kivu. To work effectively, the police force requires funding to conduct investigations which are not provided by the government. The insecurity, difficult terrain along with the lack of road networks and transports infrastructure makes it difficult for the police and the Sexual Violence Unit to travel to areas where there have been reports of serious incidences of widespread rape. The prison system is also dysfunctional and under-funded. Prison breaks are frequent due to the lack of secure facilities, and the inadequate provisions of food and sanitary conditions in the State prisons (MONUSCO 2014). Many participants in the research have pointed out that apprehended perpetrators pending trials are often set free for lack of resources and those convicted almost never fully serve their sentences. Corruption is also rife in prisons and the criminal justice system generally. The level of corruption has led to an absence of trust in the fairness of the system and discouraged the population from using it. The state is currently unwilling to combat corruption within the criminal justice system, given that many of the corrupt judges and magistrates are not suspended even following evidence of corruption and malpractice.

As mentioned briefly earlier, the cost of pursuing justice often reverts back to the victims. A leading member of the civil society explained how

*Even in cases where legal aid is provided, costs for transport and accommodation of the victim and her legal representative to the tribunal where the trial is taking place,*

*administrative fee to lodge the case, cost of collecting medical and forensic evidence and even the cost of printing the defence report have to be covered by the victim or a supporting NGO.*

Participants in the research also repeatedly mentioned that the issue of reparation in the DRC remains untouched not only due to destitution or lack of state's funds but also because of the cost associated with the process. To claim reparations ordered by courts, victims reportedly have to travel to Kinshasa and to pay for a legal representative and administrative fees, the cost of which goes beyond the awarded value of the reparation. Hence, the awarding of reparation by the state in the case of the DRC remains meaningless.

The efforts by Congolese government to address the issue of impunity for sexual violence remained largely cosmetic. For instance, while the Congolese government is currently attempting to co-ordinate efforts by actors on the ground on ending impunity for sexual violence in the region, it is unwilling to contribute funds across the ministries to this project. The presidential appointment of Madame Janine Mabunda as the Special Representative on Sexual Violence in Kinshasa, over 1500 miles away from the East where sexual violence is widespread, has been unsurprisingly ineffective on the ground.

Prosecution by the government military courts rarely targets the high ranking Congolese army officers who continue to enjoy impunity (MONUSCO 2014). There has been also almost no efforts to prosecute members of the armed groups due to the lack of State authority in the remote areas where these usually operate. The fact that most perpetrators whether civilians or military are at large makes victims reluctant to come forward for fear of retaliation by the perpetrators (MONUSCO 2014).

The situation of victims in terms of access to justice has been made worse by the recent decision by the government to abolish the traditional justice system with immediate effect in 2013 and to establish instead eight peace tribunals in the vast and inaccessible territory of the South Kivu.<sup>4</sup> These tribunals have no competence over criminal matters such as sexual violence and are not fully established yet. All of this has meant that justice has become even more removed from the victims.

In their efforts to enhance access to justice international actors have funded several mobile courts in various territories of the province of South Kivu. However, often these actors found themselves working in unchartered territory where every step of ensuring victim's access to justice needed to be

thought of and funded. This usually goes way beyond what funders and programmers have planned and budgeted for and often mistakes are made that can have detrimental results on the outcome. For instance, one of the international participants working in this area has argued that:

*Budgets and programmes planned in the Western world do not really fit the reality on the ground in the DRC. Funders may go to all the trouble of organising a mobile court hearing but they would not get a copy of the judgements if they do not remember or plan to pay for a court stenographer to travel, write, type and print a copy of the judgments something that you would assume will be automatically and freely available as part of the national justice machinery.*

At the same time, the large influx of international actors willing to fund mobile courts, brought with it the usual problems associated with donor led justice and particularly economic opportunism, competition over funding, duplication of programmes and a complete lack of co-ordination. It has also led to a situation where Congolese actors would not participate in training, hearings and workshops without financial inducements. The significant amount of money provided by donors for the treatment of each case of sexual violence, has also created a false sense of progress due to increase in the number of prosecuted cases but not of attitudes within the criminal justice system and behaviours within societies in relations to gender based and sexual violence.

The sexual violence frame in the DRC in donor led justice initiatives and peacebuilding programmes has also resulted in a hierarchy of harm with rape as a weapon of war being the ultimate and most urgent priority. This is highly problematic in a country where access to services including health and justice is largely provided by donors. In this gendered paradigm victims of rape particularly by armed actors have higher chances of getting medical treatments and benefiting from legal aid and access to justice than other victims. A multiple level hierarchy operates here between militarised and non-militarised sexual harm, sexual and non-sexualised harm as well as between male and female victims. The prioritisation of sexual violence in mobile courts trials according to many participants has created a sense of frustration on the ground and within communities where you have intractable conflicts over

lands and resources, cases of violence murders and dispossession and no recourse to justice or conflict resolution mechanisms to resolve these issues. In such a case, the prioritisation of by certain donors of sexual violence cases through mobile courts created a sense of frustration on the ground as people would not feel that their priorities are being addressed. In a similar way, the provision of free healthcare treatments and other services to victims of sexual violence as many participants have argued is also problematic. In a country where most of the population are living below the breadline and where access to healthcare is at a premium, the provision of free medical treatments to rape related sexual injuries but not for other health conditions creates a hierarchy between patients based on sexual and non-sexual violations rather than on health emergencies and needs. The condition to identify oneself as victims of rape to benefit from services is also problematic for many women who do not wish to disclose the details of what happened to them and may discourage them from seeking treatment in the first place.

Despite all the efforts and donor's expenditure, the vastness of the territory in South Kivu and the absence of infrastructure meant that survivors are often unable to reach medical facilities such as Panzi for medical treatments and psycho-social assistance. The endemic nature of rape in the DRC has also meant that the vast majority of victims will not have access to western led initiative of transitional justice (MONUSCO 2014). In the absence of neutral and functioning constabulary, police force, prison system, and judiciary and absence of state's authority and institutions it is very difficult to see how justice as prosecution can be delivered and the rule of law upheld in the Eastern DRC (Lemarchand 2010, 125).

While the international communities celebrate the few number of prosecutions achieved through mobile and military courts, there is a failure to question the very same paradigms used to devise strategies on the ground and their relevance to the local context. While the need for justice for victims of human rights violations is extremely important, what this entails in practice is far from a one size approach in the form of prosecution and punishment. Feminist scholars of transitional justice have long pointed out to the lack of relevance of forms and concepts of justice used in the West to local communities in conflict ridden societies. In the East of the DRC, local trust in formal justice is at best minimal if not non-existent. In many rural areas people were solely reliant on traditional justice

mechanisms particularly due to the unavailability of criminal justice machinery near them but also due to the associated cost, time consuming nature and corrupt reputation. This has meant that many victims are reluctant or not interested in pursuing justice in courts and tribunals. More importantly, even in the most perfect scenarios of achieving a conviction and holding the person responsible behind bars this may not be the kind of justice that victims want. As previously mentioned sexual violence is often motivated and accompanied by looting. Sexual violence also very frequently leads to pauperisation. Conflicts have also inevitably resulted in the shrinking of the economy and development and subsistence opportunities. Yet, the economic aspect of justice is often overlooked and deprioritised by donors and actors involved in designing peacebuilding and conflict related responses. Many of the participants interviewed in this research in the area of south Kivu who have had experience of sexual and gender based violence including multiple attacks have expressed unwillingness to pursue claims through the formal criminal justice system against their perpetrators and expressed scepticism vis-a-vis the ability of the current system to deliver . Instead they made it plainly clear that their priorities centre on access to lands and micro-credit, skills for subsistence, housing, and schooling for their children.

For instance, in a typical response one of the survivors in answer to a question about the kind of justice that she wants stated:

*I have 13 Children but only the eldest of them went to school, my biggest worries are my younger children who have no future or place in the society. We cannot end the problem of rape but if there is a way to send my children to school or if I can get a small capital to start a business or buy a small land to cultivate and take care of my children I will feel better and I will be able to lead a normal life. What happened to me is not important anymore. My biggest concerns are my children. If I die tomorrow my children will have nothing left but the stigma of being children of the wife of the Interahamwe. But if they have schooling they will have a better life.*

Another survivor also stated:

*I do not want prosecutions and I do not want to respond to evil by evil. When the Christian preachers visited me in the hospital, they spoke to me about forgiveness towards our enemies*

*in order to have peace in my heart and to live in harmony with God. Since then, I have forgiven my perpetrators. I remain grateful to the lord for the fact that I am still alive, because if I have died, nobody will be there to look after my children. My problems today are purely economic. I have seven children and we live in absolute poverty. My children feel deep resentment because they cannot go to school like other children due to poverty. I want my children to go to school so that they can look after themselves in the future and I want to be able to have a job or a herd of cattle to earn a living in order to help my family survive and to educate my children.*

Another participant:

*In terms of justice, I don't want prosecution; vengeance will not solve our problems. But we currently live in a house too small for us that we can hardly fit in it. We have also lost our lands and wealth because we had to move and it would be really important for us if we could have a piece of land that we can cultivate for survival and business. My father is too old now to look after us.*

These findings resonate with the view of participants from civil societies organisations who insisted that economic remedies and development oriented strategies that benefit and empower women to overcome victimisation and vulnerability in general is what is needed in the DRC. Yet donors responses remain focused on sexual violence and on criminal prosecutions and on the victims rather than more broadly on their families and communities.

The prioritisation of rape in the DRC in international programming has also inadvertently increased the stigma surrounding it. The increased attention to rape has amplified and elevated the status of rape above all other crimes and as a consequence increased its power to destroy its victims. Such power does not come from the physical act itself but rather from the symbol and value that societies and the international community attach to women's sexuality and the female body. In south Kivu, despite all the awareness campaigns organised by various organisations, men remain less likely to accept and support raped wives or girlfriends than in the case of sister, mother or daughter and the stigma surrounding victims remain significantly high (Kelly et.al. 2012). Many civil societies' activists who participated in this study, pointed out that segregating rapes from other crimes was not helpful for the

country to recover from the legacy of the conflicts and to address the issue of sexual violence. Instead, they have insisted on the need for solutions that target whole communities and in-turn would benefit victims of sexual violence as members of these communities without segregating them.

Women's activists and civil society's organisations in the East of the DRC have condemned the current focus of the international community on victimisation at the expense of gender empowerment and women's leadership. The sexual violence frame in the DRC has inevitably led to the over-representation of Congolese women as victims of rape rather than agent of change and hence often interventions are largely focused on addressing women's needs as victims of sexual violence rather than empowering Congolese women and increasing their level of participation at the regional, national and international level. The beneficiaries of these programmes are limited to those few fortunate victims rather than Congolese women and the population in general. Women's participation in the decision making and representation within the political institutions, while included in the Sun City peace agreement and in the 2006 Constitution, remains marginalised. The government not only did not display any intention to implement the equality provision of the 2006 constitution but also resists civil society activists' campaigns on this issue. The international community have failed to put pressure on the government to push for women's participation and to support women's leadership on the ground. In particular, there was a feeling among civil society's participants that the situation of women in the DRC would be much better had the international community put a similar investment in this issue of political participation and a similar pressure on the government to address it as they did in relation to sexual violence. For instance, a women activist stated:

*If women today will have access to decision making we may find a different solution to sexual violence. This why we say that participation is what interest women and the Congolese population today. But the government today resists the implementation of 1325. The commitments to women's equal representation in Sun City and after in the 2006 constitution remain ink on paper. The international community is not supporting this issue as they should. Donors are not looking for durable solutions aimed at increasing gender equality and women's participation but are more interested in women as victims.*

Finally, many of the participants in this study have complained that sexual violence in the East of the DRC has become a business opportunity and a source of income to many due to donors' interests in funding services for victims. In this regard, one civil society leader stated:

*What happened with the attention to sexual violence in the Congo is like fire-brigade intervention by donors who mobilised the funds for sexual violence in the DRC. But when donors bring funding for sexual violence everybody engages in sexual violence related activities because they know that is where the money is but not because they want to resolve the issue or help the population.*

In fact in the area of South Kivu, there was an influx of international NGOs as well as an increase in the number of local NGOs to work on this particular issue. Some international NGOs have even shifted their interests from development or climate related issues to dealing with issues of sexual violence in part due to the availability of funding opportunity in this area. The increasing focus on sexual violence according to many civil society's activists has increased the stigmatisation of victims and led to a competition over numbers and victims' registration and counting which was not beneficial for the survivors and their communities. A director of women NGO in South Kivu lamented:

*We are witnessing today a competition over victims and donors funds by NGOs mainly to mobilise donor's funds quickly. There is an emphasis on counting victims and even an appropriation of victims: "These are my victims" they would say. This approach has dehumanised women and increased their stigmatisation. It is not normal for an international NGO to come to a village and say I came to register victims of sexual violence. Do they really think that it is a pleasure to have experienced sexual violence? And who is not a victim of sexual violence or is not affected by sexual violence today because these were public acts of sexual violence. Everybody is a victim of sexual violence. Their focus should be on assisting communities and the victims live within the community.*

The focus of international NGOs on sexual violence and the competition over funds created by donors' interest in sexual violence according to many civil society's activists has only led to short term programmes and narrow scope of interventions that did not deliver at the end.

### ***Concluding thoughts***

I started the article by arguing that the increasing focus on sexual violence within the UN agenda on WPS particularly since the adoption of resolution 1820 has detracted from the broader focus on gender issues and women's empowerment espoused by resolution 1325 on the ground. While, in the last two years, there have been attempts within the agenda on women, peace and security to refocus the interest on women's participation and to re-steer international efforts toward gender empowerment and women's rights including through the recent adoption of resolution 2242 in 2015, it remains to be seen whether and how these efforts would be translated into peacebuilding practices and programmes on the ground.

I have argued in this article that, the international community's obsession with women's sexual security, at the expense of broader interest in gender security, as presented in the case of the DRC, had detrimental consequences in terms of interventions in the field. In particular, the framing of rape as a weapon of war has limited current international responses to militaristic and legalistic strategies that are incapable of eradicating sexual violence and empowering women to move beyond their sanctioned roles as victims. Sexual violence particularly in the case of the Congo is not only a weapon of war but an extensive social harm that goes beyond the artificial distinction between war and peace. Social harm necessarily requires social forms of interventions based on broader social transformation strategies aimed at combatting gender inequality and violence against women and buttressing pro-social behaviours. Legal responses on the other hand typically narrow the lens of intervention to the perpetrators away from the social norms and behaviours that allowed for violence and human rights abuses to be committed and sustained in the first place and, as a result, limit the potential for social repair. As Weinstein (2014, 175) notes; "*when legal professionals and the human rights community translate social suffering into a tort or crime ... lost in translation are the issues of distributive justice – the social, economic and cultural rights concerns that may underline the events that led to*

*repression and/or violence*". Changing the social norms in post-conflict society remains one of the biggest challenges for peacebuilding and social reconstruction.

While the priorities of survivors in the DRC and their perceptions of justice are often framed in terms of economic empowerment and development, donors and international actors remain fixated on funding and delivering justice as prosecution. Spivak (1988) has once interrogated "*the unquestioned muting of the subaltern women*" and the need to rethink the position of the western elites in their attempts to define and respond to third world women's problems. Spivak (1994) pointed out that the subaltern can be neither heard nor read. Perhaps if scholars, practitioners and donors start listening to those affected women and give them the space and the opportunity to speak in their own language about their issues and priorities then we would become more effective in designing responses to their suffering. Only by doing so, we would be able to confront our own blind spots in theory and practice and move beyond simplistic framing, analysis and solutions. The discrepancy between the needs and priorities of victims on the ground and donors led transitional justice programmes is not unique to the DRC and has been observed by many transitional justice scholars elsewhere (Jakala and Jeffrey 2015; Ni Aolain 2011; Grady 2010; McEvoy and McGregor 2008). In particular, scholars have criticised the Eurocentric nature of transitional justice norms and mechanisms and interrogated their universal application to the African context (Weinstein 2014; Vandeginste and Sriram 2011). Looking at Sierra Leone, Nkansah compared transitional justice mechanisms there to a "*justice spaceship*" phenomenon as an alien body with no relevance or link to the local context (Nkansah 2014, 117). The meaning and methods of justice are socially constructed and local perceptions and expectation of justice cannot be set aside in favour of foreign concepts and frameworks of transitional justice. To fulfil the promise of gender justice, the agenda on WPS and international peacebuilding efforts aimed at implementing it must move beyond the strictures of international law to draw on transformative redistribution, recognition and representation remedies for women as conceptualised by Fraser (2010). This would necessarily mean that interventions should not be only aimed at victims of sexual violence but at gender transformation within the society at large.

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<sup>1</sup> The seven additional resolutions on women, peace and security are 1820 (2008), 1888 (2009), 1889 (2009), 1960 (2010), 2106 (2013), 2122 (2013) and 2242 (2015).

<sup>2</sup> The Outcome Document from the Conclusion of the Kampala Dialogue between the Government of the Democratic Republic of the Congo and the M23 signed on 12 December 2013.

<sup>3</sup> See for instance, Security Council. 2008. “Open Debate.” Meeting 5916 and Resumption 1, June 19. [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/PV.5916](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/PV.5916) and [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/PV.5916\(Resumption1\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/PV.5916(Resumption1)) (accessed, December 13, 2015) and Security Council. 2009. “Open Debate.” on Women, Peace and Security

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<sup>4</sup> The decision to establish the peace tribunals go back to (1968) and (1982) Law number 68-248 and 82-020 respectively. The peace tribunals according to legal officials interviewed in this study were meant to co-exist with customary justice. However, the decision to abolish customary courts came in 11 April 2013 with law number 03-011B. The idea was to have eight peace tribunals in Shabunda, Idjwi, Fizi, Mwenga, Kalehe, Uvira, Walungu and Kabare. The peace tribunals have only been recently but not yet fully established in the East of the DRC.