IMPACT OF ARMED CONFLICT ON SEXUAL VIOLENCE AGAINST MINORS CASE STUDY IN SOUTH KIVU, DEMOCRATIC REPUBLIC OF CONGO

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Impact of armed conflict on sexual violence against minors
Case study in South Kivu, Democratic Republic of Congo

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Abstract

This study explores under a multidimensional approach, the impact of armed conflict on civilian population, specially focused on children. Unfortunately this phenomenon is increasing. The paper looks closely at the situation of sexual violence on minors committed by uniformed men, of regular and irregular armed forces and guerrilla groups in South Kivu, Democratic Republic of Congo. The number children victims of sexual violence remain still very high.

After the theoretical framework, it will be detailed the consequences of sexual violence on minors. It will be also discussed about the preventive and reactive measures. Finally, some recommendations will be proposed.

Key words: conflict, minors, sexual violence, human rights, child protection

List of acronyms and abbreviations

<table>
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<th>Acronym</th>
<th>Description</th>
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<tr>
<td>BID</td>
<td>Best interest determination</td>
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<tr>
<td>BVES</td>
<td>Bureau pour le Volontariat au Service de l'Enfance et de la Santé en République Démocratique du Congo (RDC)</td>
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<tr>
<td>CNGO</td>
<td>Community nongovernmental organization</td>
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<td>Convention on the rights of children</td>
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<td>Gender based violence</td>
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<td>HIV</td>
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<td>IASC</td>
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<td>International humanitarian law</td>
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<td>SCR</td>
<td>Security Council Resolution</td>
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<td>SGBV</td>
<td>Sexual and gender based violence</td>
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<tr>
<td>FARDC</td>
<td>Forces armées de la République Démocratique du Congo</td>
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<td>FDLR</td>
<td>Forces Démocratiques de Libération du Rwanda</td>
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<td>MONUSCO</td>
<td>Mission de Nations Unies au Congo</td>
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<td>OCET</td>
<td>Oeuvre Communautaire pour l'Education pour Tous</td>
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<tr>
<td>PEP-kit</td>
<td>Post exposure prophylaxis-kit</td>
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<td>PNC</td>
<td>Police National Congolese</td>
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<td>PLVS</td>
<td>Unité de police de lutte contre les violences sexuelles</td>
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<td>SV</td>
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Introduction

Throughout history, gender based violence has been an integral component of armed conflict. In the last century, GBV against women and girls and to a lesser extent men and boys has been and continues to be a feature of probably all recently concluded and current armed conflicts. The impact of armed conflict on civilians is multidimensional and negative. Unfortunately, the situation has not improved since the end of the Cold War. Since the 90s, when arose contemporary conflict, the civilian population does suffer the most from the consequences of armed violence. Experts talk that about 85-90% of victims are civilians. Civilians are not anymore the so called collateral damages, but the target of war. Unfortunately children are the most vulnerable group; even worse, they are often targets in armed conflicts.

The author of this study was working as peacekeeper in MONUSCO in Child Protection Section, and could see countless cases of sexual violence on minors nearly de facto on daily basis. Being part of the network on sexual on minors committed by uniformed men (armed groups, National Police of Congo, Rwandese Army, Congolese Army FARDC, rebel groups as M 23 and guerillas), connecting different stakeholders from local authorities, military court and tribunal to local and international non-government organizations and UN agencies in the effort to prevent and reduce sexual violence against minors. However, the sexual violence in general (on boys, girls and women) committed by uniformed men or civilians. According to reports (by local as well as international non-government organizations) SV remains at high levels in South Kivu.

After finishing this study, we may wonder some questions such as: What is the social impact of sexual violence on minors in armed conflict? What should be reactive and preventive measures? Why the situation does not improve despite the immense resources given to prevent sexual violence? What would be the solutions to stop and prevent child sexual violence in this region of DRC?

For the purpose of this paper, humanitarian context refers to conflict, post conflict, emergency, and catastrophic situations where an international humanitarian aid response is required.

It is important to note that discussions and recommendation in this paper are not exhaustive.

Methodology

In this study will be used the methodology of case study.

The report’s case study builds on qualitative open interviews with staff members working for international and national organizations, state institutions and judicial actors responding to sexual violence and child protection. They document their experiences and opinions related to this target group; the vulnerable children to sexual violence, together with their general observations while working in DRC during 2010 and 2011.

Following organizations and institutions have been interviewed.

- UN entities: MONUSCO, UNHCR, UNICEF
Part I: Theoretical framework

1. Some definitions and concepts on sexual violence

The following concepts are based on World Health Organization (WHO) definitions.

One form of sexual violence is child sexual abuse. It is a form of violence that can have devastating and life-long consequences if left unaddressed. There is no standard definition of child abuse.

**Child sexual abuse:** “is the involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not mentally prepared and cannot give consent, or that violated the laws or social taboos of society”.

**Child** is defined as: “any individual under the age of 18”, under the UN Convention on the Rights of Children.

**SGBV** refers to: “any harmful act that is perpetrated against one person’s will and that is based on socially ascribed (gender) differences between males and females. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty, whether occurring in public or in private life”.

**GBV:** Is an umbrella term for “any harm that is perpetrated against a person’s will, that has a negative impact on the physical or psychological health, development, and identity of the person and that is the result of gendered power inequities that exploit distinctions between males and females, among males and among females. Violence may be physical, sexual, psychological, economic, or socio cultural. Categories of perpetrators may include family members, community members, and state, religions representatives.

**Rape:** Is what often comes to mind when one hears the phrase sexual violence. It refers to a person forcing another person to have sex with them. Different legal jurisdictions further define the term in various ways. The key element is that it involves the use of violence or threat of violence by a person against someone for sex against that person’s will and without their consent.

**Sexual exploitation:** “Is any act or attempted abuse of a position of vulnerability, differential power, or trust for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. It is the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions”. It is to note that sexual violence includes “sexual exploitation” and “sexual abuse”.

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Sexual Violence (SV) against women and girls\(^4\): It is a consequence of gender inequality, gender unbalance and gender inequity. In summary SV is:

- a human rights violation (UN)
- a form of GBV (CEDAW)
- a form of discrimination (Amnesty International)
- a crime against humanity and element of genocide (Rome Statute)
- a war crime and can be an element of genocide (Geneva Conventions)

WHO and other organizations definitions of sexual violence include\(^5\):

- Rape within marriage, in community relationships, and by strangers.
- Systematic rape during armed conflict.
- Unwanted sexual advances or sexual harassment, including demanding sex in return for favors.
- Forced marriage and cohabitation, including the marriage of children.
- Forced abortion.
- Denial of the right to use contraception or to adopt other measures to protect against sexually transmitted diseases.
- Violent acts against the sexual integrity of women, including female genital mutilation and obligatory inspection for virginity.
- Use of sexual violence as a strategic and tactical weapon of war to spread sexually transmitted infections (STIs) including HIV/AIDS of sexual violence against women (as well as boys and girls and sometimes men) as a strategic and tactical weapon of war to psychologically humiliate the enemy.
- Forced prostitution and trafficking of people for the purpose of sexual exploitation

2. Effects of sexual violence in wars

The perpetration of sexual violence in war, as well as the lack of protective and other services for survivors, is bound to long-standing gender inequities that contribute to girls’ vulnerability to abuse, exploitation, and violence throughout their lives.

Children are the most vulnerable group to SV, given their level of dependence and limited ability to protect themselves. The stigma and shame surrounding child sexual abuse in all societies usually leave the child to face the harm in solitude. Disclosure of the abuse seldom leads to a conviction of the abuser - rather it is the child who is blamed and judged. Child survivors of sexual abuse in humanitarian context require treatment that is appropriate for their age, sex, cultural and community context, and particular form of sexual abuse.

Sexual violence can be resulting from the breakdown in social and moral systems. But sexual violence can be systematic, for the purposes of destabilizing populations and destroying bonds within communities and families, advancing ethnic cleansing or supplying combatants with sexual services.

Sexual crimes also occur during flee from conflict sites, during civilian displacement, committed by bandits, insurgency groups, military, border guards, host communities, humanitarian aid workers, peacekeeping forces and fellow refugees. Other form of violence that may increase is domestic violence, forced or coerced prostitution or other forms of sexual exploitations. Conflict regions are a fertile ground that facilitates trafficking of women and children.

3. Basic principles of child protection

The UN Convention of the Right of the Child (CRC)\(^6\) embodies four principles that should guide all child protection related activities:

- Non discrimination. There shall be no discrimination against any child. All children have the right to protection. Art. 2
- Best interest of the child. The best interests of the child shall be a primary consideration in all actions affecting children. Art. 3
- Right to life, survival and development. Each child has a right to life, survival and development to the maximum extent possible. Art. 6
- Child participation. Children should be assured the right to express their views freely and their views should be given importance. Art. 12

Confidentiality of the affected persons and their families should be respected, to share only the necessary information, as requested and as agreed by the survivor, by those actors involved in providing assistance.

Through the process of conducting an assessment on a child situation, it may be determined that a best interest determination (BID) is required to secure longer term protection needs. A BID is a formal procedure with strict safeguards designed to determine a child best interests when addressing a decision affecting children in specific circumstances, including when a child faces a serious risk of violence or abuse.

The right of the children to participate in decisions that affect their live is a key pillar of the right of the child, based approaches and programming. What is best for a child cannot be determined by a general formula. What is best for the individual child will not necessarily be the best for another.

3. The international legal and political framework

The human rights of women and girls are inalienable, integral and indivisible part of universal human rights.

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The full and equal participation of women in political, civil, economic, social and cultural life, at the national, regional and international levels, as well as the eradication of all forms of discrimination on ground sex, are priority objectives of the international community and UN system.\(^7\)

Within the last 15 years, through several documents, the international community has made increasingly clear statements defining violence against women and girls. The nations of the entire world have acknowledged that girls and women are vulnerable to violence that may be physical, sexual or psychological, perpetrated in private spaces (home), or in public settings; including working place, educational institutions or other public places.

On 31 October 2000, the Security Council unanimously adopted the landmark resolution 1325, which calls for the active participation and representation of women in processes of preventing conflicts, peacemaking and peace building worldwide. The resolution takes note of the particular impacts of conflict on women and girls; it also urges governments to include women in peace processes and peace agreements. It also calls governments to send more women as peacekeepers to UN peacekeeping missions. According to SCR 1325, member States, UN agencies, and others actors, have to be aware to ensure that gender issues has to be taken into account in all aspects of conflict prevention, peacekeeping and post-conflict reconstruction.

Gender equality between women and men, has been recognized and confirmed since the creation of the UN in1945. It has also been confirmed in the Article 25 of the Universal Declaration of Human Rights (10 December 1948).

International humanitarian law (IHL) is the legal body that applies in times of armed conflict. The main instruments of IHL are the four Geneva Conventions and their three Additional Protocols. It also applies the Hague Conventions of 1899 and 1907. These legal bodies rule how hostilities have to be conducted.\(^8\) The IHL protects persons who are not, or who are no longer, taking an active part in hostilities. These rules protect both women and men, boys and girls, either as combatants, persons hors de combat (prisoners of war, including the sick and wounded), or as civilians. It requires that parties to an armed conflict must distinguish between civilians and combatants at all times and must not direct attacks against civilians and civilian targets as monuments, hospitals, etc. Further, IHL contains specific provisions that aim to protect women from the effects of hostilities as well as from violence in armed conflicts.

Moreover, rape and other forms of sexual violence are codified within the International Criminal Court (ICC) of Roma Statute as war crimes and crimes against humanity. The ICC may assert jurisdiction over persons aged 18 and above and hold them criminally liable for war crimes, crimes against humanity or genocide, regardless of whether they are government officials, heads of State or governments, or members of parliament. Under the doctrine of command responsibility, military commanders and other superiors may be held legally accountable for criminal offences perpetrated by armed forces under their effective command or authority and control.

\(^7\) The Committee on the Elimination of Discrimination against Women is the body of independent experts that monitors implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

5. Sexual violence on minors in armed conflict

In July 2005, Security Council adopted the Resolution 1612 which aim is to protect the children in the situation of armed conflict. It stressed the primary responsibility of States in regards to the protection of children in armed conflict. It establishes Monitoring and Reporting Mechanisms (MRM) on the grave violations of children rights in the armed conflict. The SC Resolution 1612 also creates working group in charge of examination of reports on grave violations of children rights and formulation of recommendations to relevant actors. The basic principles of MRM are: best interest of children, impartiality, neutrality, confidentiality, security and accurate information.

The UN Security Council agrees that there are six grave violations from which children need to be protected:

- Recruitment and use of children as soldiers.
- Killing and maiming of children.
- Rape and other sexual violence committed against children.
- Attacks on schools or hospitals.
- Abduction of children.
- Denial of humanitarian access for children.

Sexual violence against children is a serious violation of children’s rights. Yet it is a global reality across all countries and social groups. It takes the form of sexual abuse, harassment, rape or sexual exploitation in prostitution or pornography. It can happen in homes, institutions, schools, workplaces, in travel and tourism facilities, within communities; both in development and emergency contexts. Evidence shows that sexual violence can have serious short- and long-term physical, psychological and social consequences not only for girls or boys, but also for their families and communities. This includes increased risks for illness, unwanted pregnancy, psychological distress, stigma, discrimination and difficulties at school.\(^9\)

In 2002, WHO estimated that 150 million girls and 73 million boys under 18 years experienced forced sexual intercourse or other forms of sexual violence involving physical contact.\(^10\)

Part II: The impact of sexual violence on minors on individuals, family, community and country in contemporary armed conflicts

1. SV against girls and women

Now, there is international recognition of the fact that women’s fight for survival begins at a very early stage in the life cycle. This can be seen in the mortality rate of girls aged 1-4 years, which in some places is higher than boys of the same age group. Girls are also especially vulnerable to sexual violence since their tender years – to

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which they are very frequently exposed in the “safety” of their homes. Following sexual assault, girls may face further victimization at home (by male family members) and in their communities.

They are often morally condemned, and many times killed, by communities if local cultural or religious expectations place responsibility on females for their own victimization. In many societies, greater value is placed on girls who remain virgins, as they are considered to be worth more in marriage exchanges. The choices open to girls in these situations are limited, so they become easy targets for further exploitation through prostitution, slavery, child labor, and trafficking. Armed conflict, particularly within states, has perhaps drawn the greatest attention to the issue of gender-based violence in recent years. Although the victimization of women and girls, has much increased in contemporary armed conflicts.

Women as combatants in military groups have also increased. In Colombia for example, women combatants arises to 30% of military contingents. However, they are not represented in peace process or signature of peace agreement. They are also deeply discriminated in Demobilization, Disarmament and Rehabilitation (DDR) process after hostilities.

Women and girls fleeing armed conflict form a majority of the world’s refugees and internally displaced persons (IDPs). It is estimated that 80% of IDPs and refugees are women and children. They must live under insecure conditions which make them more vulnerable to sexual harassment, sexual assault and rape. Even, in many refugee camps or during flight, some of their “supposed” protectors- UN peacekeepers- police or military and humanitarian workers- become their victimizers or perpetrators.

Another by-product of armed conflict is the trafficking of human beings for use as laborers, for forced prostitution, or as slaves. The lack rule of law and political and social disorder and instability, make a prosperous ground for these illegal activities.

Sexual violence is a difficult phenomenon to measure accurately. First; as shown in above definitions, SV can be defined to include a very wide array of activities. Second, many of these activities occur in private or hidden places; they may be associated with other illegal acts such as trafficking or prostitution and thus deliberately concealed; or, sometimes, it is culturally accepted within contexts that no one would think to report them as violence or SV. Third; definitions used by different researchers and scholars is a real challenge to combine or compare facts and figures from multiple studies.

SV is also, of course, a particularly intimate – and thus for many an especially harmful or humiliating – form of violence. This is true whether it is perpetrated against females or males. Since most direct perpetrators of sexual violence are male, and since most societies have some form of cultural taboo against homosexuality, when sexual violence victims are male and boys. They are especially likely to experience that violence as humiliating and are especially unlikely to report it. This is why much less is known about the use of sexual violence against men and boys in situations of armed conflict. What is known is that such violence occurs in every armed conflict.
2. SV against men and boys

Boys and men can also be subjected to sexual and gender-based violence. Survivors have specific health, psychosocial, legal and safety needs, but often find it hard to discuss their experience and access the support they need. The programs on sexual and gender based violence need to include men and boys and to provide guidance on how to access survivors, facilitate reporting, provide protection and deliver essential medical, legal and social services\textsuperscript{11}.

Following long term national and international advocacy, more countries are legislating against SGBV against women and girls, although prevention and redress remain extremely inadequate. Sexual violence against men and boys is less understood or acknowledged. Where social and cultural norms reinforce gender inequality by casting men as inherently strong and expected to protect women and children, attacks on markers of gender identity are a powerful weapon of war. Where social norms and taboos on sexuality and sexual orientation marginalize or stigmatize same-sex relations, sexualized attacks against men serve not only to diminish their masculinity in their own eyes and the eyes of perpetrators, but can be interpreted by the survivor, perpetrators and the wider community to be an expression of his sexual orientation or gender identity\textsuperscript{12}.

At this stage it is impossible to provide general prevalence rates because sexual violence is generally under reported and against men and boys, it is seriously under reported. This is aggravated when laws prohibit same sex relations, and particularly when they make no distinction between consensual and non consensual acts.

In addition to immediate physical harm, an act of sexual violence highlights survivor´s vulnerability and challenges his perception of masculinity, sexuality, procreative capacity and gender identity. As with female survivors, psychological injuries are frequently accompanied by psychological distress, depression, difficulties with intimate relations, social stigma, marginalization and isolations, inability to engage in particular livelihoods and lack of legal redress.

Men and boys survivors of sexual violence often suffer silently because widely held social norms and perceptions of gender, social stigma and cultural taboos regarding discussion of sex and sexuality make it difficult for them to come forward.

Violence against men and boys in modern conflict makes them similarly vulnerable, especially in detention centers, where more than 50% are sexually tortured and humiliated by the enemy. In the 2008 OCHA Report “Use of SV in Armed Conflict: Identification of gaps in the research to improve OCHA interventions”, paper #2 of this meeting deals with “The nature, scope and motivation of sexual violence against Men and Boys in Armed Conflict”. The identified four areas that must be better analyzed in armed conflicts\textsuperscript{13}:

- Lack of attention focused in violence against men and boys
- Lack of reporting

\textsuperscript{13} Op.Cit., p. 119
Lack of detection
Lack of a legal framework

Stigma is one of the biggest barriers to timely treatment of survivors of SGBV as it may prevent the survivor from reporting and seeking help. The failure to address sexual violence against men and boys can result in some survivors resorting to negative coping mechanisms, including violence that can have a lasting, damaging impact on their family and the broader community.

The local population may be heavily reliant upon peacekeepers and humanitarian aid organizations for its subsistence. This dependency makes members of the local population extremely vulnerable to exploitation and abuse by peacekeepers and humanitarian workers. Women and girls in these insecure environments are particularly vulnerable because they have little protection from sexual abuse and may have few alternatives to sexual exploitation in order to survive.\(^\text{14}\)

**Part III: South Kivu, DRC case study**

1. **Some facts and realities on SV in Bukavu town**

   Peacekeepers of MONUSCO in DRC, only in South Kivu in its capital Bukavu, registered 36 cases of sexual violence on minors committed by uniformed men- verified during the period of four months from 1/1/2012 to 27/4/2012. These are only verified cases, not counting all the yet non verified allegations and cases committed by civilians-verified and allegations.

   The number of victims of sexual violence is difficult to estimate, however according to the Director and Founder of Panzi General Hospital in Bukavu, Dr. Denis Mukwege, the hospital admits on average at least 10 new victims of sexual violence every day, in a year it is being on average 3,600 cases.\(^\text{15}\) The age of the victims of sexual violence varies, during the assignment in DRC, MONUSCO registered as young victim of rape as 6 months old.

   According to UNHCR South Kivu, 886\(^\text{16}\) rapes were reported in South Kivu in 2011. Principal perpetrators were civilians, FDLR (Forces Démocratiques de Libération du Rwanda) and FARDC (Forces Armées de la République Démocratique du Congo); 301 rapes of girls minors. In total, 729 incidents against children were registered by UNHCR in South Kivu in 2011.

   According to a study in East DRC published by JAMA Review\(^\text{17}\), among the household-based population in the survey area, 39.7% of women and 23.6% of men were reported to have been exposed to sexual violence during

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Among those exposed to sexual violence, 74.3% of women and 64.5% of men were exposed to conflict-associated sexual violence. Perpetrators of conflict-associated sexual violence were reported to include 41.1% women as perpetrators among female survivors vs. 10.0% among male survivors.

The most common type of sexual violence reported by both women and men was rape (women, 51.1%; men 20.8%). Among the many consequences reported, less than 10% of men and women for whom sexual violence was reported also reported being stigmatized by family or community.

The numbers are certainly underestimated as being raped brings a huge stigma for the victim and consequences. Raped girls and women hide the fact that they were victims of sexual violence as their husbands, family and community might reject them and expulse from home.

After a rape of minor girls, if the perpetrator is discovered, he usually offers the family to get married with the girl so as to “legitimize their relationship” and cover the rape. Normally, the girl is not asked if she agrees with the wedding. A certain amount of goats or money is added by the perpetrator to the family of the victim. Although underage marriage is forbidden by the Congolese national law, anyway, it is still a common practice.

There are many areas in South Kivu that are inaccessible as enclave as: Axe Ramba-Kusisa - Ziralo in Kalehe territory, axe Kinene-Biolwa-Ekingi - Kalehe in Kalehe territory, axe Luyuyu-Idunga-Shabunda in Shabunda territory, axe Irhegarhonyi: Kashehi – Mushashirwa in Kabare territory, axe Busolo-Kashebevy (Luntukulu) in Mwenga territory, axe Lubumba- Kingova – Mugutu in Mwenga territory and axe Mbandakila in Mwenga. All these territories are inaccessible to reach the victims. Assistance that is usually provided by international organizations; comprises medical assistance (including delivery of PEP kits) if the victim can be reached within 72 hours after the rape; the PEP kits reduce the risk of contamination with HIV virus, avoid undesirable pregnancy and reduce the risk of sexually transmissible diseases (STD), psychosocial and legal assistance. There are many other issues to deal with these kinds of assistance.

One of the biggest challenges to deal with medical assistance to survivors is that the Congolese health centers are currently de facto absent in remote areas of South Kivu. If they are presents, they are not regularly supplied with medical supplies, or with the necessary qualified and motivated personal to work without adequate wage (on average, a nurse in remote areas receives 30 USD per month in these health centers). Ad hoc, programs of international organizations don’t lead in longer horizons to sustainable solutions for the regions.

Psychosocial support is usually very short term service. It is provided by local people who were trained by international organizations. Legal assistance- if the minor victim or their parents decide to complaint to the court- is provided by local organizations. Unfortunately the first aim of these local organizations is to show to the potential donors how in many cases they are “taking care of”.

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20 In Europe, to be a social worker it takes from four to five years of studies. In DRC the persons called “social workers” are people with one or two weeks of training, mainly given by international organizations personnel
The disconnection and unbalance between efforts and what happens on the ground is striking. Hundreds of millions of US dollars were invested in combating sexual violence in South Kivu, but de facto, there is not any improvement of the situation.\(^{21}\)

According to Brendan Nyhan,\(^{22}\) “we tend to evaluate information a directional bias toward reinforcing our pre-existing views- seek out information that supports our preconceptions and avoiding evidence that undercuts our beliefs”. We read and hear in Medias about terrific situation of sexual violence in South Kivu and how many millions of dollars should the international community raise to save the population in South Kivu. Initiatives brought by local communities are hardly noticed or even considered as a possibility.

### 2. Actors in the armed conflict in South Kivu, DRC\(^{23}\)

The area of South Kivu has passed through violent times during consecutive Congo wars. FARDC, FDLR, Mai-Mai and Raia Mutomboki, and most recently M23 militia, remain currently the main armed actors in the area.

Mai-Mai claims to defend the Congolese people against foreign armed groups. Mai-Mai is traditional local defense militias, self-defense group that operates in Kivu.

The Forces of Democratique de Liberation du Rwanda (FDLR), is a politic-military movement that originates from ex-FAR (Forces Armées Rwandaises) soldiers, ex- Interahamwe militia and Hutu civilians who fled the offensive of the Rwandan Patriotic Front in Rwanda (RPFR) in 1994. The exact number of FDLR members in South Kivu is around 700 combatants. FDLR have chosen to live a hidden life on rough terrain. FDLR is involved in various types of illegal business operations such as illegal mining and drug trafficking. Some of them, the ex-genocidal have interest in maintaining this status quo. These business activities are more lucrative than to return to Rwanda. FARDC are the official protectors of the Congolese State and its population. In some areas, they retain position in remote places where their motive is to enrich themselves by illegal mining and trade in the region of Shabunda.

The FDLR combatants and civilians live often in the same areas as the Congolese population. Some FDLR are married with local women. However, they live rather next to Congolese people than among them in military bases. The FDLR presence in South Kivu is a problem because the FLDR have a long history of human rights violations and their presence serves as a pretext for Rwanda to interfere in the ongoing conflict in Congolese soil. The most reported violations are: illegal taxation, extortion, plunders armed robbery, sexual violence and killings. The FDLR stay away from larger towns and are present on the borders of Park Kahuzi Biega. In the park, many Rwandan Hutus have founded a settlement with about 5,000 civilians living there.

FARDC soldiers are implicated in a considerable number of human rights violations throughout the region.\(^{24}\) Congolese army soldiers have committed killings, arbitrary arrests, detention, crimes of sexual violence as well

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\(^{21}\) According to reports of several organizations (People in Need, Oxfam), which are implementing programs against sexual violence on the ground.


\(^{24}\) Human rights watch, Democratic Republic of Congo. Renewed Crisis in North Kivu. (2007) p. 43
as tolerated the property of civilians. The cooperation between the FARDC and the FDLR is a sensitive issue; the FDLR receives weapons from FARDC.\(^{25}\)

International attention of sexual violence in DRC was generated during the 1996-2002 wars when Congolese human right activities brought out the news of brutal mass rapes. Perpetrators were mostly identified as armed factions from neighboring countries, such as the Rwandan Interahamwe, FDLR and the Burundian FNL (Forces Nationales de Liberation).

Sexual violence became understood as an “imported crime”, even though it has now become clear that the local military actors such as Mai-Mai groups also committed these crimes. In war settings, rape is linked to control, punishment, status, ceremonies, peer pressure and bargaining. Rape is systematically used as a weapon of war.

### 3. Child recruitment and sexual abuse

The issue of gaining the release of girls associated with armed groups and supporting their reintegration is highly complex. Reaching girls associated with armed groups requires a prioritization of community-based approaches that address social conceptions and attitudes about girls used by armed groups.\(^ {26}\) Socio-cultural conceptions of girls form obstacles to their release from armed groups from both the question of the armed groups themselves and from the community in terms of the reintegration context. Military officials view girls as a form of possession and claim that girls are their wives rather than child soldiers they are obliged to demobilize. Girls themselves often do not see leaving the armed group or their military husband as a choice. This is due to real threat of violence and recrimination as well as socio-cultural upbringing where girls are expected to be submissive and accepting of men. If girl has a sexual contact with a man—whether voluntarily, by rape or by assumption due to being taken by an armed group—outside of marriage and the dowry, she is considered to no longer have any value in the society.

Girls escaped and found their own way back to their communities, friends or extended family members. Girls who have escaped prefer to guard their presence in the community discretely, both to combat social stigmatization and due to the real threat of being pursued by their former commanders.

The number of children associated with armed groups in DRC is unknown. DRC is a party to international laws prohibiting the recruitment and use of children, including the Optional Protocol to the UN Convention on the Rights of the Child.

Fears of community are that girls have been dishonored, fear that they will return with HIV and other sexually transmitted diseases. There is a social stigma of children where the father is not known, not known by the family or society. This also represents an additional dishonor to the girl’s family.


4. Legislation related to sexual violence in DRC

Instances of armed violence continue until today and the rape as war crime discourse continues to some extent to be relevant. However, it dominates perceptions of sexual violence, even though sexual violence currently mainly concerns acts between citizens. While sexual violence by civilians may be related to the legacy of war, it has additional cases in the gender relations in the DRC where women’s positions in social, political and cultural domains are highly restricted. In 2006, DRC adopted a law on sexual violence. The law recognizes a variety of sexual violence crimes against women and girls.

Two laws on sexual violence in DRC have been adopted; the number 06/018 of 20 July 2006 and 06/019 of 20 July 2006. The first one modifies and completes the decree of 20th January 1940 on Code Penal and the second one modifies and completes the decree of 6th August 1959 on procedural Code Penal. There is also a new law on child protection 09/001 of 10th January 2009.

The law number 06/018 of 20 July 2006 brings the definition of rape in its article 170 and also stipulates that men as well as women can be the victims of sexual violence. We must remember that this was not the previous situation. The law number 06/019 of 20 July 2006 brings the respect of the dignity of victims during the procedure in its article 74 bis. It is not acceptable amicable settlements.

According to child protection Law number; 09/001 of 10th January 2009, art. 171 on rape of minors, it is punished from 7 to 20 years of prison and fee of 800,000 to 1,000,000 Congolese francs. Persons aged less than 18 years in the moment of the facts, cannot be in prison to perpetuity (art. 9). Punishment as the death penalty is not allowed as well (art. 9). It also mentioned the Special Tribunals for children in Art. 84 to 131.

In practice, there is little or no attention paid to crimes other than rape, partly because a number of these crimes are socially accepted by customary practices around sexual relationships and marriage. It also fails to acknowledge that men have also been abused and raped.

Impunity is an important block to eradicating sexual violence in DRC. It is characterized by a lack of legal operating budgets disbursed by the government, lack of knowledge on procedures and practices around corruption and political influence. As a result, many perpetrators of sexual violence never end up in prison. We can affirm that in DRC, impunity is rampant in this variety of sexual crimes.

Sexual violence continues to be strongly associated with war time rapes, even though sexual violence has shifted to a civilian character and become part of the normality of post conflict society. There is little acknowledgement of socio-cultural notions of sexual violence that are rooted in gender perceptions and practices.

Sexual violence perpetrated by husband may be considered a “normal” part of male dominance where sexuality is one of the many domains in which husbands may demand obedience. Socio cultural realities and community

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perceptions of sexual violence differ from the definitions in the law. Most data are not clearly explained, and statistics are often vague about the timeframe they use.

The DRC is a patriarchal and tribal society in which violence against women is normative and rarely reported. In rural areas the traditional interpretations of dowry and inheritance laws generally restrict women ability to divorce or otherwise live independently and domestic conflicts are typically settled by male heads within the family. Forced sex in marriage is often considered the husband´s rights, a conviction exacerbated by the dowry traditions.29

**Part IV: Reactive and preventive measures and recommendations**

1. **The role of women and girls specifically in DRC society**

Traditional explanations for gender-based violence often place the responsibility with men, who disproportionately control political institutions along with the power to build militaries structures and wage war. It is not uncommon to see claims that wars are started by men who are “naturally aggressive” in a male dominated cultures and systems. Thus, the image and roles of women are as mere bearers of children, with no role to play in the public life of governance and politics. Women and girls have a high degree of illiteracy compared with men and boys. This reality perpetuates the lack of access to high positions in the political hierarchy of the country, therefore on the decision making processes of the government institutions. They do not have any role in peace and security issues.

Sustainable peace and security will not be achieved without full and equal participation of women and men. Gender mainstreaming means creating the widest possible space for men and women, boys and girls to have equal access to resources and power, and to be equally involved in decisions about how things will be done. Gender mainstreaming means doing things differently; it allows women and men equal participation. It is dealing with men and women separately sometimes and together at others. Women and girls empowerment is a phrase often used by development organizations to describe one of the key goals of programs addressing women’s poverty and subordination.

But what do these concepts means in the ground? Women and girls are not merely passive recipients of help, but are active agents of change. They are the dynamic promoters of social transformation in this kind of societies. Generally, women’s empowerment is now seen to be multidimensional, made up of economic, social, political, psychological, and physical components.

2. **Reactive measures**

Case management is defined as a set of actions- from early identification to case closure- that are provided by individuals to protect a child of gender based violence and get their needs met.

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Some complexities that separate child case management from adult case include issues such as:

- How to understand child development and child reactions in the context of sexual abuse,
- How to manage safety issues for children experiencing violence at home and or in close community contexts,
- How to incorporate the family in case management and psychosocial care,
- How to address communities negative reactions to child sexual abuse
- How to include impact of parental history of victimization and strong social norms regarding virginity and homosexuality that can result in severe stigmatization and further abuse,
- How to best coordinate care across different agencies and sectors, namely GBV and child protection.

Strategies on how to communicate and engage with child survivors are important to responsible personnel. This includes techniques for using role playing, art and toys during interviews, adapting communication based on child ages, gender and degree of mental development has to be considered as well. Finally; to establish friendly relations of trust between personnel and the child’s family.

In addition, actors should establish responses and solutions which respect confidentiality, as well as the wishes and rights of victims, including the best interest of the child. Support services for sexual violence child survivors, must be free of charge.

Standard training in all aspects of GBV treatment and response should be mandatory required for health workers. The rights of the survivor to safety and confidentiality should be paramount in any service provision.

Multi-sector approach -including health care, protection, security, legal support and psychological support, all must be closely linked. Coordination between actor’s communications and practices, responding to reports of child sexual abuse must improve to prevent further damage to the health and well-being of the child survivors. A child sometimes must undergo repeat or similar interviews or examinations by health care workers, GBV and child protection workers, UN, NGO personnel and local authorities. They may suffer further trauma. Confidential methods data collection should be standardized and shared among the sectors.

The obstacles in application of the laws concerning sexual violence are at various levels:

- Political level: no politic will of judiciary system and misuse of power between actors in the penal and judiciary chain. Coherent policies are needed, as well as the independence of political powers.
- Administrative level: staff is not enough qualified or not enough trained. Poor infrastructure and logistical sources, administrative delays in file handling, bureaucratic and slow access to justice among others. The adoption of Code of Conduct is recommended, disciplinary sanctions and encouraging denunciation of corruption. Continuous training of judiciary actors should be regular and systematic.
- Financial level: put in place free justice principle. Specific budget has to be considered to sexual violence survivors. With these simple measures, budgets to judicial power to address SV; should be more effective and fair.
• Others obstacles to be addressed are the *amicable settlements* between the parties, lack of collaboration of population during the research surveys, passive assistance of lawyers, non respect of delay legal of pronunciation of judgment and bad conditions in detention cells among others.

3. Prevention

In regards to the prejudices and cultural stereotypes, awareness rising on women’ rights is crucial. Local organizations should support women and girls in the fight for their civil rights. It is necessary also to do changes from the basic and secondary education system, to awareness rising that gender equality in education is crucial for development. This should involve local authorities and religious leaders. To encourage organizations that fight for the rights of women and girls to education is mandatory.

GBV issues, especially in terms of mutual respect, and sexual health, should be introduced into school curricula to promote the equal participation of girls and boys in schools, including at secondary level. It is essential to place special emphasis on the needs of girls who have dropped out of school.

Involvement of male community representatives in ongoing prevention efforts is a basic need. Men should be encouraged to offer their support and expertise in addressing gender violence, and should be considered as important allies in promoting gender equality. Men’s organizations, religious leaders and governments should actively participate to involve men and male community representatives in GBV prevention efforts.

Widespread multimedia campaigns that utilize television, radio and print should be used to conduct prevention campaigns and to inform survivors about the availability of health, social services and legal aid for all- refugees, IDPs and post conflict communities. It is important to consider the use of local language or using explanatory drawings for the illiterates. Raise awareness in the community about the rights of children in general is helpful, including the prevention of and responses to sexual violence and harmful traditional practices.

Personnel of Ministries responsible of internal affairs and Judiciary should require specific training within their respective sectors on the existence of protective laws related to GBV and SV. Where laws offer inadequate prevention to these crimes and protection to victims, they should be revised very carefully. Females should be as well actively recruited to police, military and judiciary, it means deep engagement with SSR (Security Sector Reform) encouraged for UN to all Members States.

In armed conflict and following population displacement, national governments should review their responsibility of protecting refugees and IDPs, to ensure the same degree of protection accorded the general population, also applies to refugee and IDP populations.

Traditional and current dynamics of these African communities is expected assistance from foreign countries to care for their children, rather than looking at appropriate roles and responsibilities across family members, extended family and neighbors, religion leaders, local organizations or civil authorities.
Another view point to consider is about research on GBV. It has been predominantly focused on victims and survivors of rapes. A better understanding of the roots causes of SGBV in conflicts can only be gained by examining and analyzing the experiences and motivations of perpetrators.

International peacekeepers and security forces should improve their monitoring system of personnel behavior which may directly or inadvertently contribute to coerced or forced prostitution, sexual exploitation and abuse, trafficking, and other forms of GBV, holding them to national and international codes of conduct and the responsibilities outlined by UN Security Council resolution 1325+4 and Code of Conduct guidelines. Females should be actively recruited to increase their participations in international security and peacekeeping forces. Today out of approximately 125,000 peacekeepers, women constitute 3 % of military personnel and 10% of police personnel in UN Peacekeeping missions\(^\text{30}\). Finally, building of confidence of women should be supported so as to escape the feeling of inferiority towards men.

4. Why the situation does not improve although an important amount of resources is attributed for programs of sexual violence every year by international community?

Many things seem useless to Western perspective but are important for the people on the ground. Sometimes projects are designed to please the donors, not having as priority to understand the local root causes of the problem. Projects are as well limited by the timeframe- usually implemented in two years period; however the change might need a generation or two to have effective results on the ground. Peacekeepers that come support the programs, are not always aware and not enough skilled practitioners. Therefore, a serious consideration of principle “do not harm” is strongly needed before any decision to implement a project in development country.

Without in-depth analysis, it is difficult to understand the roots causes of sexual violence. The many different tools that have been used in South Kivu by international organization to fight against sexual violence have not proved to be successful. The problem persists even increased and intensified this during the year 2012. We should rethink the context and most of all ask the local population what would be, according to them, the best solution acceptable by their community to fight against this epidemic of violence. Surprisingly, the local organizations or people are hardly asked an opinion on the project proposals in their territory. They normally are not taken into account during planning projects. Supposedly, international community knows the best, what should be the solution and where the project should be implemented. Usually in it’ should be implemented in an accessible geographically locality to facilitate personnel of international organizations in monitoring of the project. Remote and difficult access areas, sexual violence usually remains the most. These regions are usually not considered in the projects. Local authorities didn’t take any initiative to combat sexual violence. What measures could be taken by them to protect survivors of SV? None. Sexual violence is solely addressed by international community, and it is dramatically failing.

Congolese revolution does not change the structural causes of this phenomenon and therefore Congolese resigned to address sexual violence to local authorities, where no aid, funds or answer is found. The political will is the core stone. If Congolese authorities don’t see the sexual violence as big problem of their

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communities, their unwillingness to address the problem will be transmitted to the ground. As consequence, impunity to these daily crimes persists, perpetuating this epidemic.

Although sexual violence is pursuit in the Congolese law (for example the Law of 2006 about sexual repression and the Penal Code), actually the victim is often frustrated with no hope in justice due to the inertia of judicial authorities.

We, the western world people, tend to see only a narrow approach to peace and consequences of war (absence of sexual violence for example). According to Simon Fisher and Lada Zimina, “peace is not simply about the absence of visible violence but requires addressing underlying drivers and dynamics”. Apart from addressing this “narrow peace” in South Kivu, there is a need of addressing the invisible violence as well, such as verbal violence, prejudices, attitudes, bias, etc. Then what is holding us back?

5. What could be the possible solutions?

There are certainly several factors holding us back. For example: value based divisions, lack of a deep understanding, mistrust and competition over resources or shortage of skilled practitioners. If we come as “peacekeepers” to implement a project on sexual violence in the East of DRC without previously consulting the local population on the project; what we can expect? To do an extensive preparatory work during the drafting of the project in collaboration with locals, otherwise the project will not be a success story. A mistrust sentiment towards the locals- to whom the project was designed- is common.

The current reality of weak women falls well into the patriarchic society that reigns in South Kivu. In this society, women and wives are there for: to take care of men, children, elders and household. Men have all the “rights” to “shape” their behavior for the “well being” of the society (themselves). So, it is a circle of violence without end.

"Those who are uprooted are destined to uproot others”

Simon Fisher and Lada Zimina describe two ways of peace building. The first approach, transformative: aims at fundamental political and social change. The second one, technical; aims at practical difference in a specific domain, without necessarily challenging the deeper context. Presently, mostly second approach prevails in peace industry, without questioning the fundamental roots causes of conflict and violence. The transformative way of peace building should be implemented by peacekeepers, and catalyzed by local community.

Regarding the fight against impunity, the denunciation and follow up of perpetrators is essential. Country leaders and police makers should integrate gender perspective into the reform of security sector. International legal framework must be applied. DRC is a member State of UN, so they are committed to respect UN rules, policies and laws.

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34 According to the Chapter V, article 25 of the Chart of United Nations
Conclusions

Finally, a question arises: What can we do?

Here are some suggestions:

1. There should be strict and transparent accountability towards civil society instead to donors from the side of international organizations.
2. Behavior of peacekeepers, personnel of humanitarian organizations and donors must adhere to strict codes of conduct. These should be monitored and sanctioned in case of violations to its principles.
3. Local empowerment of people, mainly women grassroots organizations, is indispensable if a sustainable solution is found, to legitimize the proposed solutions.
4. Improving networks and linkages communications and systems is very important to avoid overlapping of initiatives and programs. Indentifying gaps should improve achieving objectives.
5. A new approach to solve the problem has to be taken. This can be lead by local women and girls who are also members of wider networks can influence and empower many others, including government representatives. This kind of initiative would eventually be refused from external funding. A previous campaign of awareness is necessary to raise enough resources. Local sympathizers and business-transformative elements are key elements in cooperating.
6. It is imperative an overall need to broaden new horizons. Processes should be evaluated as well as significant outcomes; not only count the victims of sexual violence but also to understand the process that the society in itself is going through.
7. Efforts should focus on understanding sexual violence in its particular context, with special attention to its socio-cultural roots of gender dimension. As most of the assistance has focused in alleviate the consequences of the VS, assistance programs should focus on the long-term development, which mainly aims to eliminate the root causes of this phenomena. Among others long-term factors are: addressing gender relations, strengthening the role of women within the society, fostering women’s leadership, awareness and increasing respect for human rights, intensifying security, justice and other necessary reform measures, and seeking community based responses to sexual violence.
8. The problem of violence against women and girls in DRC cannot be solved without remedying the global pattern of women’s lesser power and control over resources in relation to men. Changes starts with the elimination of discrimination against girls compared to boys, which remains against women in relation to men. It cannot be significantly changes without addressing the patterns of violence against girls and women in both public and private spheres. The international legal framework exists. It's just a matter of applying.
9. SV against children is the most important issue as a consequence of war. Programs and initiatives must to consider the adequate responses to these phenomena as its first priority.

“Of the 565 of the peace agreements made between 1990 and 2010, 16 per cent mentioned the word women; 7 per cent mentioned gender equality or women’s rights; and just 3 per cent mention gender-based violence”35


Cluster Protection-UNHCR. Analyse des lacunes dans la reponse aux problemes de protection (2012)


Human rights watch, Democratic Republic of Congo. Renewed Crisis in North Kivu. (October 2007)

IASC. Guidelines for gender based violence interventions in humanitarian settings (2005) IASC.


Nyhan, B. and Reifler, J. When Corrections Fail- the persistence of political misperceptions. 2007.

Side by Side- Women, Peace and Security, UN WOMEN. Available at: http://www.unwomen.org/2012/07/new-un-women-documentary-launched-on-women-conflict-and-peacekeeping/


UNICEF. Child protection from violence, exploitation and abuse. Available at: http://www.unicef.org/protection/57929_58006.html


