

Online Appendix Ethical and Methodological Considerations

Lake, Milli; Muthaka, Ilot; Walker, Gabriella. 2016. "Gendering Justice in Humanitarian Spaces: Opportunity and (Dis)empowerment through Gender-Based Legal Outreach in the Eastern Democratic Republic of Congo" *Law and Society Review*: Volume 50, Issue 3

The article draws from extended field research in eastern DR Congo between 2011 and 2013. During this period, the authors were engaged in a large body of broader research involving the criminal justice system. We have monitored criminal trials, observed the work of legal aid clinics, and collected observational and interview-data with a large number of Congolese and international legal practitioners, experts and NGO representatives over a period of many years.

The landscape of international support for victims of sexual and gender-based violence in eastern DR Congo shifted dramatically between 2005 and 2015, with gender issues dominating international responses to the conflict. In the context of massively increased attention to the gendered dynamics of conflict, this particular project sought to understand the ways in which supposed beneficiaries of gender-based legal aid understood and interpreted their interactions with the legal system.¹ A great deal of attention has been focused on improving legal responses to gendered crimes and combating impunity for sexual offenses. However; to date, little attention has been paid to the supposed beneficiaries of these reforms.

Thus, building on our prior work, we undertook a subset of extended interviews with participants in legal processes in an effort to evaluate how recent legal reforms were being received by those they were most immediately intended to assist. As Silbey (2005: 340) observes, ethnographic approaches to studying the law reveal far more nuance and complexity than survey responses or other research methods can capture. She notes that other approaches

¹ We define gender-based legal aid as legal aid and outreach extended to Congolese communities victimized on the basis of gendered harms.

typically fail to detect the cultural variation in the skepticism, embrace of, or resistance to law. Although the primary data for this project were not ethnographic but interview based in nature, we endeavored to allow interviewees to speak freely and at length in their reflections and responses to our questions, in order to capture and make sense of these complexities.

The study was vetted and approved by University of Washington's Ethics Review Board in February 2012 and was modified to include this subset of interviews in January 2013.² We conducted interviews in one urban and two rural locations in DR Congo's eastern provinces of North and South Kivu between January and June 2013. The interviews were coordinated and facilitated in partnership with three Congolese organizations, which we refer to here as: "A", "B", and "C".

Organizations "A" and "B" are based in South Kivu working to bring peace and healing to victims of conflict. "A" houses a women's center and offers educational assistance programs and skills-based trainings to victims of conflict in a very small town fairly difficult to reach from the nearest major cities. "B" provides material and psychological support to victims of gender-based violence and connects them with other local and international support services. "C" is based in North Kivu and provides sexual health education and gender empowerment training across the province. "C" also engages in advocacy work towards gender parity and the eradication of male violence, and works with local church groups and civil society organizations to provide a range of support services to victims of sexual abuse. None of these organizations engages directly in legal outreach. However, in their daily activities, each work with local and international organizations that provide a range of medical, legal, social and economic services.

Recruitment

² Study Application 42090, IRB Committee C, University of Washington Institutional Review Board

Our local partners were intimately familiar with the pool of potential interviewees and sensitive to the local context, and thus well placed to judge who would be willing and able to talk to us about their experiences. Given the sensitive subject matter, it was crucial that we did not approach potential interviewees at random. We wished to exclude all those who were likely to feel discomfort or any possibility of secondary trauma by responding to our interview questions. We thus sought to identify only those who appeared comfortable and willing to share their experiences with us. Interviewees were thus selected by our partner organizations on the basis that they had 1) voluntarily reported having experienced a gendered crime; and 2) the partner organization felt they would feel genuinely comfortable in speaking to academic researchers.

While, of course, it would be impossible to eliminate everyone who would feel traumatized or uncomfortable speaking to academic researchers, we wanted to exclude from consideration those who were visibly fragile or particularly vulnerable in any way. While this decision undoubtedly affects the generalizability of our findings beyond this small sample – in that those women who were not necessarily accustomed or comfortable speaking to western researchers may have offered very different perspectives that would have been significant for the broader research agenda – from an ethical standpoint, the inclusion of such individuals was out of the question for us. We were also careful to exclude minors from consideration.

We spent a great deal of time with representatives from “A”, “B” and “C” discussing the best ways to broach our research with potential interviewees, while ensuring that they in no way felt coerced into participating. Based on their own expertise, preferences and recommendations, each of our partner organizations employed slightly different processes. Since two of the organizations housed service recipients, either on their premises (“A”) or close by (“B”), they

approached individuals who did not meet our exclusion criteria and who were present or close to the premises on the days we were working. “C” provided services to the largest number of beneficiaries and hand-selected interviewees from a list of individuals they were working with.

After the potential interviewees had been identified, each organization followed a similar process, raising the possibility of volunteering to speak with one or two academic researchers about their experiences. While we were not party to the initial conversations between our partner organizations and the potential interviewees, we selected these three organizations because we were closely acquainted with their work. Because those intended to benefit most directly from legal development are typically victims of violent crime, we needed to ensure a great deal of faith and confidence in the sensitivity of our partner organizations when dealing with vulnerable individuals. Importantly, we also needed to feel confident that our partner organizations had a strong understanding of the nature of our research, and were sensitive to the power dynamics inherent in any interviewer-interviewee interaction. After conversations with counselors and support workers in each organization, we were confident that translators and representatives from each organization would make clear that participation was totally voluntary and there would be no negative repercussions associated with declining to speak with us. We also ensured that each representative made explicit that their support from the organization would in no way be compromised if they declined to speak with us, if they appeared unwilling or reluctant to do so, or if they expressed negative opinions about their experiences. After conversations between partner representatives and potential interviewees about the academic research, we asked our partners to gauge whether or not potential interviewees would be comfortable in sharing their experiences with us. For 50 out of 54 potential interviewees, the partner organizations contacted us to coordinate a meeting. At no point prior to the meeting did our partner organizations pass on

the names of prospective interviewees, and at no point during the process did we receive any confidential contact details or other identifying information.

The interviews

Our subset of 50 interviewees fell loosely into three categories: those who had reported a crime and successfully initiated legal proceedings (27); those who had reported a crime and attempted to initiate legal proceedings that failed (12); and those who reported a crime but declined to pursue formal legal remedy (11).

Interviewees were all female and, with one exception, ranged between 16 and 63 years of age. Further, interviewees came from a variety of ethnic and socio-economic backgrounds. It is important to note that there are a number of male survivors of sexual violence in DR Congo, in addition to female survivors. While we did not intend to recruit only female interviewees, none of our partner organizations were providing services to male survivors of sexual violence at the time we were carrying out our research. While we would have liked to better understand the experiences and decisions made by male victims, the female sample is broadly representative of the gender breakdown of litigants in gender violence cases, who are predominantly female. A 2010 - 2011 judicial monitoring project (UNDP 2012) recorded only 35 male litigants (as compared to 4859 females) out of a sample of 6554 (the gender of the victim was not recorded in 1660 cases but was considered likely to be female). Due to the fact that our pool included only female interviewees, the discussions presented here do not generalize to male victims of violence who face different forms of stigma.

Our interviews were predominantly semi-structured in nature, with the interviewer(s) posing questions directly to the interviewee in a secure and private location. Partners “B” and “C” suggested that some individuals may feel more at ease speaking about their experiences in

small groups. Organizations “B” and “C” used their judgment to discern where this format was appropriate and offered some individuals this option. In such instances, questions were posed one at a time, and each participant in the group was invited to answer the question and share her reflections and responses if she felt comfortable doing so. Other participants were then invited to comment or interject if they wished to expand on a particular point. In three cases a friend, family member or support worker of the interviewee was present for part of the interview.

Interview times varied greatly depending on the format, the time constraints of respondents or coordinators, the information provided by the interviewee, and how comfortable or forthcoming the interview appeared to be. The average interview time was between 40 minutes to an hour. Most interviews were carried out in the premises of organizations “A”, “B” or “C” although some took place in the homes of the interviewees. All interview locations were chosen by the interviewee, in conversation with the facilitating partner organization, according to where would be most practical and where the interviewee would feel most comfortable. Where the interviewee was required to travel to a location other than her home, she was provided with up to 2000 Congolese Francs (approximately USD \$2) for transport to and from the interview location. We were unable to provide any other form of financial remuneration to the interviewees by virtue of requirements imposed on the project by the University of Washington Ethics Review Board that examined and approved the study.

All of our interviews were carried out by two people (either two researchers, or one researcher and one translator) in the local languages of Kiswahili, Kinyarwanda or Moshi with translation into either French or English. Interviews were all voice recorded for subsequent analysis. Interviewees were informed that they could stop the interview at any time, or decline to answer any questions they did not wish to answer. The majority of interviewees were very

forthcoming with information and no one requested to terminate the interview early or declined to answer any questions. In two cases, the research team decided to terminate the interview early on grounds that the interviewee appeared visibly upset.

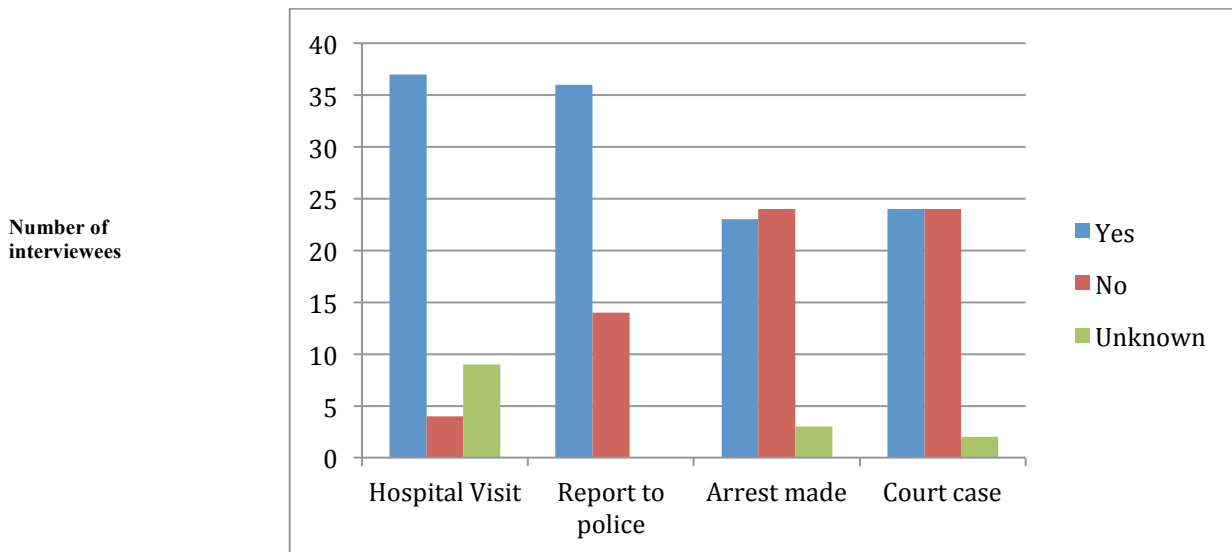
Following a semi-structured format, we divided our questions into two parts. Interviewees were first asked demographic questions, such as their age, place of birth, place of residence, ethnicity, education level, marital status, and number of children. In the second part of the interview, interviewees were asked to describe the incident they had experienced; what course of action followed; what options they perceived to be available to them; how they decided which course of action to pursue; and how they reflected on their experiences with the pursuit of justice.

All interviews were transcribed and analyzed in July and August 2013. During the analysis, specific attention was paid to the precise words used by the interviewee in her native language. Since “justice” is an abstract, amorphous concept, and words associated with it do not always carry the same meanings in every language and context (Yoo et al. 2013), understanding exactly what interviewees meant when they invoked such terms was critical to ensuring accuracy in the data analysis process. The interviews were analyzed in collaboration with local research partners who were familiar with the native languages of the interviewees. In our analysis we took care to understand and present stories within their holistic contexts, so as not to miss meaning. The quotes presented in the article capture individual reflections and experiences, as well overarching narratives that reflect key themes or ideas expressed by participants.

Table 1 depicts the breakdown of actions that were reported by our interviewees after they had experienced a criminal offense. Since our sample only included women who had voluntarily reported cases, the vast majority of our interviewees received medical treatment after

the assault. While many rapes and sexual assaults go unreported, victims are far more likely to report the incident if they are in need of urgent medical care. Approximately two thirds of our interviewees had reported the incident directly to the police, in two thirds of those cases an arrest was made, and approximately half of the incidents in our sample ended up in court. We do not offer a breakdown of how many cases resulted in a “successful” resolution as, as our interview data reveal, success is highly contingent and can be defined in a number of different ways. In some instances, victims and witnesses were unaware of the outcome of their case; in others, guilty verdicts were delivered by courts and never implemented; verdicts can be appealed; reparations can be awarded and not paid, and sentences can be executed but the defendant subsequently escapes from prison. Thus, rather than breaking these down into statistics, in Part IV of the manuscript we instead discuss what each interviewee herself knew or believed about the outcome of her case, and how she personally felt about the success of the resolution.

Table 1: Breakdown of individual and institutional responses to gender violence among interviewees



Ethical and methodological considerations

There were a number of ethical, practical and methodological choices we were forced to

confront in designing and implementing this research. While we felt that no empirical analysis of legal aid, outreach and capacity-building could be complete without incorporating the perspectives of those individuals most directly implicated in increased accountability efforts, we were nevertheless concerned with how best to incorporate these perspectives in our analysis without further distressing or inconveniencing intended beneficiaries. Our primary concern was to understand the relative value of the pursuit of legal remedy for participants in legal processes, as well as any problematic repercussions that might result from access to justice initiatives, while also ensuring the safety, comfort and security of our interviewees. In practical terms, this meant ensuring that interviewees felt safe and protected, and that they were willing participants in our research. We also had to remain vigilant that we were not subjecting our interviewees to any further emotional or psychological harm by virtue of interviewing them about their experiences, which required being closely attentive to subtle social or linguistic cues. Although we were not interviewing participants about the criminal incident they had experienced, but instead about their attitudes towards – and experiences with – the justice system, many of our interviewees had nonetheless been victims of traumatic or violent sexual crimes. It was almost impossible to talk about their attitudes towards, and interactions with, legal institutions without some background, at least in part, on the criminal incident in question.

Like other areas of law, protections for vulnerable populations, as well as laws governing academic research, are less uniformly publicized or enforced in eastern DR Congo than they are in other research sites. While rules do exist protecting subjects of academic research, these rules often vary from place to place, and are not widely known or enforced, either by academics, local authorities, government officials, non-governmental organizations, medical personnel or local service providers. Thus, responsibility frequently falls to individual researchers and their

academic institutions to police their own interactions with their research subjects, and uphold the types of protections that should be afforded.

While the research itself would have benefitted from speaking to a wider array of individuals, for the reasons noted above, we were not prepared to engage a more representative sample. Our findings are therefore likely to be systematically biased in a number of ways. First, they pertain only to those individuals who voluntarily reported incidents of sexual violence to the police or other authorities. Those who do not report are likely to face different sets of challenges that fall outside the scope of this study.

Second, those interviewees who have received services from well-established and respected NGOs who focus on gender are likely to offer slightly different perspectives and have different experiences than those who receive services from severely under-resourced rural health clinics or have only reported the incident in question to police officers at remote rural police stations. In designing and conceptualizing the research, we considered traveling further afield to interview service recipients at more remote health clinics. However, upon reflection, we felt that the relationships of trust we had built with organizations “A”, “B” and “C”, as well as the gender-sensitive approaches of those organizations, allowed us to recruit interviewees with a high degree of confidence in the organizations’ recruitment and facilitation of the interviews. We would be unlikely to ensure the same degree of trust and sensitivity from organizations we were previously unfamiliar with. That said, we did include urban and rural variation in our sample, and it was interesting, although unsurprising, that those in the most remote locations were far more resistant to the pursuit of legal remedy. This speaks to the important role that accessibility to NGOs and legal institutions have played in incentivizing to turn to formal legal avenues for dispute resolution.

Finally, it is important to confront head-on the very real potential for perceived coercion among interviewees and how we dealt with this. While we were as diligent as we could be about ensuring that participation was voluntary, and communicating that there would be no negative repercussions associated with declining to meet with us, it is difficult to circumvent the possibility that some interviewees potentially felt that they might accrue certain benefits by virtue of meeting with western academic researchers. This dynamic is particularly relevant in eastern DR Congo, given the proliferation of humanitarian organizations providing services to victims of sexual and gender-based crimes. As we observe in the article, there is a widespread perception that stories of sexual violence may elicit certain types of benefits that are not afforded to individuals who have experienced other forms of harm. We were forced to grapple with this potential incentive for meeting with us throughout the course of our work. While it was impossible to entirely circumvent the possibility that individuals expected tangible benefits to result from sharing their stories with us, we were constantly attentive to this possibility. We made every effort to preempt and mitigate this perception in order to ensure genuine informed and voluntary consent.