Law & Social Inquiry (2025), 1–24
doi:10.1017/lsi.2025.7

Law& Social Inquiry

ARTICLE

Peacekeeper-perpetrated sexual exploitation and abuse in the Democratic Republic of the Congo: Legal pluralism and legal recession

Heather Tasker[1], Annie Bunting[2] and Susan A. Bartels[3]

[1]Assistant Professor of Law, Justice & Society, and Political Science at Dalhousie University, Halifax, Nova Scotia, Canada, [2]Professor of Law & Society and York Research Chair in Gender Justice and Peacebuilding at York University, Toronto, Ontario, Canada and [3]Associate Professor of Emergency Medicine and Canada Research Chair in Humanitarian Health Equity at Queen's University, Kingston, Ontario, Canada
Corresponding author: Heather Tasker; Email: Heather.Tasker@dal.ca

(Received 20 December 2023; revised 06 August 2024; accepted 10 October 2024)

Abstract

The United Nations (UN) has operated a longstanding peacekeeping mission in the Democratic Republic of the Congo (DRC), while simultaneously contributing to rule-of-law building and transitional justice processes. Sexual violence is widespread in the DRC including routine allegations against UN peacekeepers. The operation of numerous legal systems and judicial mechanisms in the DRC produces a legally plural environment that is difficult for survivors of sexual and gender-based violence to navigate, and this is especially true for survivors of peacekeeper-perpetrated sexual exploitation and abuse (SEA). In this paper, we explore justice-seeking among SEA survivors in the DRC and the challenges imposed by the complicated jurisdictions and layered legalities pertaining to SEA. Moreover, we argue that, beyond barriers to justice, we see a *recession* of justice for SEA produced by the United Nations and member states positioning SEA as distinct from other forms of gender-based harms and exacerbated through the legal navigational challenges faced by survivors.

Keywords: Peacekeeping; Sexual exploitation and abuse; Democratic Republic of the Congo; Legal pluralism; Justice; Gender-based violence; Armed conflict

Introduction

Environments are not legally plural solely by virtue of multiple legal systems operating within a certain territory; the interactions, competitions, cooperation, and conflicts between these systems can produce new and shifting legal landscapes for community members to navigate. The Democratic Republic of the Congo (DRC) has been the site of numerous progressive legal advancements in response to sexual and

gender-based violence (SGBV), with international and national civil society actors working diligently to combat impunity and prevent rampant sexual violence both within and outside of armed conflict (Lake 2018). Legal innovations, including increased employment of international criminal law within Congolese military tribunals, referrals to the International Criminal Court (ICC), and advancements in domestic criminal law (Sahin 2021) have increased access to justice for some survivors of sexual crimes. Concurrent with these developments, the DRC has hosted a peacekeeping mission that was, for many years, the largest in the world,[1] the United Nations Stabilization Mission in Congo (MONUSCO). United Nations (UN) personnel have routinely been accused of serious abuses (Acland 2023; Tasker 2023; Tasker et al. 2024; Kovatch 2016) and MONUSCO is among the missions with the highest number of allegations.[2] Peacekeeper-perpetrated sexual exploitation and abuse, often termed 'SEA,' is an umbrella term that includes acts ranging from transactional sex and sex work to statutory rape and sexual assault (ST/SGB/2003/13). SEA occurs in a legal gray zone wherein some acts classified by the UN as SEA are criminal and others not, while all are breaches of UN policy. Jurisdictional challenges make achieving accountability often practically impossible. We are concerned here with this legally plural gray zone, a space in which legal accountability is privileged over and controls access to other modes of redress, while simultaneously pulling legal responses away from SEA survivors. This recession of law results in justice being positioned as just out of reach.

While on missions, peacekeepers are effectively governed by their home legal systems, further complicating an already legally plural context for survivors to navigate. This often results in a recession of law and justice following gender violence, despite the abundance of laws circulating in the DRC and academic and political emphasis on anti-impunity for SGBV (Engle 2018; Engle 2020; Houge and Lohne 2017). In this paper, we draw on results from empirical data analysis and academic and civil society literature to present the current legal climate contending with SEA in the DRC. We contrast this to the policy and legal parameters in which the UN mission operates. We then use interview and survey data to explore how these juxtapositions are understood and navigated by women who have experienced SEA. Law as normatively responsive to and responsible for sexual violence[3] is an emerging consciousness in the DRC (Lake 2018; Lake et al. 2016) and is frustrated by complex jurisdictional disparities for crimes committed by peacekeepers versus Congolese perpetrators; this produces a context in which achievement of justice depends more on the status of the perpetrator than on the act committed.

Survivors have a sense of justice largely grounded in material needs and local norms, focused less on criminal accountability than on support and recognition. The UN, however, has refused to equate economic compensation with justice following

[1] Recent drawdowns and the accelerated pace of mission withdrawal means MONUSCO has reduced in size significantly over the last year (2023–24).

[2] Regularly updated data on SEA allegations is made available by the United Nations Conduct in UN Field Missions office and is accessible here: https://conduct.unmissions.org/sea-data-introduction

[3] The law is simultaneously tasked with responding to sexual violence after it occurs, as well as being responsive to socio-cultural shifts in understandings of sexual violence and holding a deterrent role for prevention. This complex task is increasingly elaborated through international programming and the Women's Peace and Security agenda. See Kirby 2015; Houge and Lohne 2017.

https://doi.org/10.1017/lsi.2025.7 Published online by Cambridge University Press

SEA, while simultaneously positioning legal responses as out of reach for SEA survivors. The result is that the UN avoids compensation and accountability to survivors, as the "justice" they offer is not experienced as such by survivors, and survivor justice priorities are rejected by the UN. We position this conundrum as a recession of justice, in that both the UN's and survivors' justice are out of reach following SEA. This is the result of both practical barriers including challenges with reporting, jurisdictional limitations, a lack of follow-up on the part of the UN, and affective barriers that position the UN's justice as inappropriate and unhelpful, and thus not just. Rather than presenting a narrative solely about hypocrisy or justice denied, we argue that the tensions, contradictions, and complexities in both the justice landscape and the recessions of law following SEA is an intractable challenge of a legally plural and conflict-affected context.

There has been important research examining access to justice in legally plural contexts following community-level violence (Helbling et al. 2015) and in the advancement of women's rights in fragile states (Chopra and Issa 2012). Few studies, however, have taken up the concept of legal pluralism in relation to either peacekeeping missions broadly, or peacekeeper-perpetrated SEA. Most feminist studies examining legal mechanisms of redress for SEA, such as Otto (2007), Sweetser (2008), Burke (2014), and Freedman (2018), are concerned with the utilization and effectiveness of different legal systems, such as domestic courts or the International Criminal Court. They do not explore, however, how these overlapping systems operate, or not, *in place*, producing a territorialized justice system that grounds international projects in a unique configuration within DRC. Nor does the predominant approach consider the *recession* of law[4] in relation to peacekeeper SEA. In the DRC, there is arguably an abundance of legal structures competing and overlapping: community-based law, controlled and implemented by chiefs; state-based laws; international law (criminal, humanitarian, and human rights, all of which have been concerned with conflict-related crimes in the DRC); and military law, both domestic and international as per the involvement of peacekeeping troops from numerous countries.

Despite these numerous legal and normative systems operating in parallel, survivors find significant challenges and limitations in access to justice and meaningful legal redress following SEA. The problem does not fit neatly into the purview of any one legal system and the seeming multiplicity of options results in survivors and community-based practitioners alike being unsure where to turn for justice. Based on our analysis, we argue that the relative power of different legal orders in eastern DRC results not only in confusion for the survivors but in a recession of the mode of justice, which is presented to them as dominant: liberal law via the UN. Through this recession, alternative means to justice, including economic and customary justice, are also moved out of reach for survivors of SEA through their

[4] Here, "law" refers to both criminal law, to hold peacekeepers legally accountable for criminal acts, and also law as a normative order or non-state system. In the latter, we can consider law as beyond codified law and operating as also a concept of normative ordering with violations of this order as warranting intervention and punishment of the violator. In this way, law recedes both in the sense that criminal law is often inaccessible in SEA cases and also that SEA is not consistently responded to as a crime that warrants legal accountability.

https://doi.org/10.1017/lsi.2025.7 Published online by Cambridge University Press

positioning as illegitimate by the organization responsible for preventing and investigating SEA: the UN.

Theoretical Framework

Legal pluralism research centers on the intersections and interactions between overlapping legal orderings, how community members make choices about legal engagements, and what this can tell us about law's operations, potentials, and limitations. Beyond the theoretical aspects of this scholarship, legal pluralism research has the potential to localize supposedly universal standards, offering insight into how people experience and exercise, or not, their rights. Drawing on Merry's concept of vernacularization (2006), Provost and Sheppard write "Legal pluralism offers an approach that translates abstract and broad human rights standards into the vernacular of everyday life, transplanting these norms into ordinary human relations where they can truly achieve their transformative potential" (2012, 1). Relatedly, Lubaale (2020) argues that international criminal law is, by nature, a pluralized legal system, and by embracing and enhancing, rather than ignoring, this pluralism between liberal and traditional/customary legal systems, enactments of justice can be increased and improved.

Eastern DRC is a legally plural environment with simultaneous operations of state law, military law, international criminal and humanitarian law, and local community-based justice mechanisms. The presence of foreign peacekeeping forces adds a layer of complexity to the legally plural site not present in other contexts. This is a complementary legal pluralism, with jurisdictions and relevant systems determined largely by the status of the accused, the availability of resources and ability to undertake investigations and trials, and the nature of the crimes allegedly committed (Swenson 2018). Although pluralism is complementary, lines are not clearly defined or well-known to community members, as this paper will demonstrate. We also draw attention to the practical hierarchies and competitions between these legal systems, beyond the obvious mapping of local, national, and international systems (see also De Vos 2020). In doing so, we argue that the current pluralized system complicates and obfuscates access to justice. By adopting a more survivor-centric approach that incorporates customary law and justice practices, SEA can be redressed in a way that is meaningful for survivors while simultaneously respecting the jurisdictional parameters imposed by state parties.

Through the terms delineated in Status of Forces Agreements (SOFAs), established between the mission-hosting country and the United Nations, and Memoranda of Understanding (MOUs) established between the Troop Contributing Country (TCC) and the UN, peacekeepers carry with them their own countries' military laws while operating within a legal space that holds virtually no power over them. TCC laws move through space, attached to their service members who remain under their home country's jurisdiction despite operating in a very different social space and as part of a distinct organization, the UN. This legal transplantation is further evidenced in the emerging practice of some TCCs holding court-martials within the country where the misconduct has been alleged. For example, South Africa held court martials in the DRC in 2018 and 2019 for its service members accused of sexual abuse (personal communications, MONUSCO personnel, Goma 2020), and Pakistan held an *in-situ* court

https://doi.org/10.1017/lsi.2025.7 Published online by Cambridge University Press

martial in response to rape allegations in Haiti in 2012 (Reiz and O'Lear 2016). In these instances, South African and Pakistani military law materializes and is enacted within sovereign states with their own legal systems. The logic behind this process relates to the notion that justice is done when it is seen to be done, alongside technical considerations relating to access to witnesses and victims. In the Pakistani-Haitian case, however, this process was undertaken entirely separately from the UN or Haitian legal system and did not include the victim's family, despite being held in Haiti (Reiz and O'Lear 2016).

The number of systems working to redress sexual crimes is particularly salient in the DRC, which has been made synonymous with widescale rape in international narratives (Baaz and Stern 2013; Meger 2016). Yet, sexual violence committed by peacekeepers is positioned outside of this discourse and complicates the focus on weaponized and tactical rape. As we will show, the multitude of legal systems seemingly concerned with sexual violence in the DRC recede or are inaccessible to survivors of SEA committed by peacekeepers. We use the term "recession" rather than a barrier to demonstrate the "pulling back" of law and justice, the positioning of SEA as acts that do not warrant a legal or justice response. This places SEA in the realm of policy and disciplinary procedures, despite the extent and seriousness of harm suffered by SEA survivors (Tasker 2023; Tasker et al. 2023; Lee and Bartels 2020).

Institutional norms, policies, and practices sometimes operate in law-like ways to govern the behavior of internal members and external parties (Moore 1972). Moore's (1972) concept of semi-autonomous social fields helps uncover the operations of social norms that wield considerable influence over individuals' lives, sometimes through explicit rules and order but often through unwritten and informal practices and norms that are difficult to avoid or escape. Normative ordering, for Moore, is more than codified legislation and state power, it lies within the myriad influences and pressures that organize social life and systems of exchange and reciprocity, and that disciplines members of the social group. While less tangible than formal law and operating "under" official government jurisdiction, these modes of social organizing have equal and sometimes greater influence on the day-to-day lives of those subject to them. They effectively operate as a form of customary law (Moore 1972; 2014) within groups and organizations and impact how other laws are interpreted and applied in the social field.

This captures well the space in which we see important tensions between the official Congolese laws and peacekeepers' home jurisdictions, the operation of UN policy, and the institutional norms and cultural practices of the peacekeeping mission. Each of these codes of organization is law-like in operation, and yet at times directly contradict one another in practice. Within the peacekeeping missions, different jurisdictions, and legal understandings of "travel with" peacekeepers, there is, threaded through these, the operation of UN policy and mandates that carry the authority of the UN and their universalized[5] application. These policies, however, fail to have the material consequences or hard power of official law.

There has been increased attention to prosecuting civilian-perpetrated sexual violence crimes in domestic courts in the DRC, with mixed results. While Lake (2018)

[5] Policies and mandates are universalized across the mission in that they apply to everyone equally regardless of nationality or profession.

https://doi.org/10.1017/lsi.2025.7 Published online by Cambridge University Press

comprehensively charts numerous important and progressive verdicts toward gender justice in the DRC (see also Seelinger 2020), there remain significant barriers and challenges to reporting, investigation, and safe trials (Lake et al. 2016; Aroussi 2018). Further questions as to whether the emphasis on the securement of legal accountability properly considers safety and security for survivors and their families (Lake et al. 2016) are crucial. Competing priorities between the securement of a legal outcome and the safety and support of victim-survivors demonstrates the complexity of justice in this context, and how the multiplicity of actors may serve to complicate rather than clarify responsibilities (Lake 2018; Lake et al. 2016).[6]

Dunn (2017; 2018; 2021) studied engagements and conceptions of law in response to gendered injustices, among other wrongdoings, in Uvira, DRC, to better understand how community members engage with different legal processes and systems. Dunn positions her findings as pointing toward *hybrid legality* and an *emergent legal pluralism* in that interactions and tensions between international legal and law-like systems operate alongside and sometimes come into conflict with local justice processes, including customary law.[7] Both hybrid legality and emergent legal pluralism are useful analytics to employ when considering peacekeeper perpetrated SEA in the DRC. Indeed, like our own findings, Dunn argues that the lack of efficacy and achievement of desired outcomes through the courts, along with the continued prevalence of belief in processes outside of formal law, frustrate attempts to access legal justice following SEA. The UN policy approach to SEA discourages forms of justice, including customary and non-formal systems, that do not fall within liberal logic, and yet the legal system is poorly equipped to contend with most instances of SEA, which often occur in a "gray area," either in law, in women's framings, or both. The grievances we share from the data provide insight into the local normative order, highlighting the "gray area" of SEA in this legally plural context. This "gray area" includes transactional sex and sex work, dating relationships, and acts that constitute rape within criminal law but are not identified as such by women or their communities. All these often result in children being unsupported by their peacekeeper fathers (Tasker et al. 2023). We consider these gaps between liberal law, customary law, and community norms in the DRC as indicating a negative barrier, a space that prevents the realization of justice by or for the UN, or for women affected by SEA. In what follows, we detail the methods that led to these findings and position these within the literature, to advance an argument around legal recession following SEA.

Methods

Our findings are derived from a collaborative, cross-sectional mixed-methods study exploring community perceptions of the MONUSCO peacekeeping mission, sexual exploitation and abuse, and the experiences of mothers raising peacekeeper-fathered

[6] For similar concerns within military justice operations, see also critiques leveraged against the operations of the Minova tribunals, which, observers argue, put victim-survivors at significant risk, violated the rights of the accused, and resulted in very limited convictions of low-level soldiers (Human Rights Watch 2015; Morse 2021).

[7] See also Lake (2018) for a detailed discussion on how an increased emphasis on legal accountability and criminal justice has impacted women's understandings of sexual violence in eastern DRC.

https://doi.org/10.1017/lsi.2025.7 Published online by Cambridge University Press

children (PKFC) in the DRC. This research was done in partnership with SOFEPADI, a Congolese organization working to support survivors and to end violence against women. SOFEPADI offers legal aid, psycho-social support, community outreach, and education, and operates a medical center. Community-derived data were collected in 2018 using SenseMaker® – a proprietary, mixed-methods research tool. SenseMaker responses were gathered by twelve Congolese research assistants employed through Marakuja Kivu Research, a non-profit research organization based in Goma. Following the SenseMaker survey, two Congolese members of the research team then conducted qualitative interviews with women who had shared they had sexual interactions with a peacekeeper and/or were raising a PKFC. This data collection was later followed by a focus group discussion to delve deeper into women's experiences and gather their perspectives on the SenseMaker data. All participants in the research remained anonymous, and all were given the opportunity to access information about reporting SEA or other abuses and to receive psycho-social support through SOFEPADI.

Originally designed for market-based research, the SenseMaker approach has more recently been used for social science and public health research given its usefulness in providing both a "snapshot" of public perceptions and more personal, narrative-based data (Bartels et al. 2019). In our research, potential respondents were approached in public areas, markets, community centers, etc., in six communities in eastern DRC and invited to participate. Conducted on tablets, the SenseMaker approach relies on narrative prompts presented to participants. The participant chooses a prompt and is then asked to audio record a story or narrative, in response to that prompt. For example, in this research, one of the prompts was "Tell us a story about the best or worst thing for girls and women living near this UN base" (please see Appendix A for survey information). The stories were open-ended and non-directive; participants were never asked specifically about sexual relationships or abuses by peacekeepers. They could choose to talk about themselves, someone they know, or something they have only heard about. Narratives could be negative, positive, or neutral, and about any topic the participant wanted. The narrative did not even have to be about women and girls, despite the prompts' specification, and participants were not interrupted or redirected if they shared a narrative about another topic.

After recording the narrative, participants were led through a series of questions asking them to explain the most important elements in the narrative, to interpret the events they shared. Because the tablets were touchscreen, participants could place a marker anywhere on the "canvas" to indicate how strongly they felt their response aligned with the options given. They could also select "not applicable" for any given question. A strength of the method is in allowing participants to be as specific as they want, more so than with Likert scales or ranking/rating type questions. A SenseMaking approach also allows for the generation of quantitative data based on how perspectives are plotted; this data can then be disaggregated by age, gender, location, etc.

SenseMaker's narrative data allows for qualitative analysis, which is the focus of this paper. Data can be disaggregated by experience, including for women who are raising a PKFC or had sexual interactions with a peacekeeper. Data can also further be disaggregated based on demographic information including location, age, education level, etc. The transcribed narratives also provide important anonymous insight into

https://doi.org/10.1017/lsi.2025.7 Published online by Cambridge University Press

community experiences with MONUSCO. Tasker reviewed each of the 2,856 narratives collected and extracted any mentioning sex, violence, conflict/insecurity, law, human rights, or humanitarian aid by peacekeepers. Narratives were then organized by theme, location, and identity of the participant (age, gender). Tasker additionally collated and systematically coded all first-person narratives from women (stories told by women and girls about themselves), using first a deductive and then an inductive method. This was combined with a structural approach aimed at uncovering conceptions of justice and harm possibly threaded throughout the data. We utilized this approach as per DeCuir-Gunby, Marshall and McCulloch (2011), initially coding for reference to outcomes of exploitation and abuse. These were generated from the initial read-through of the narratives and interviews (deductive, or data-driven approach) and reference to impunity/lack of accountability, type of abuse/exploitation, and reference to UN responsibility, as these are prominent themes in existing literature (inductive or theory-driven approach) and, based on specific questions, we wanted to answer regarding conceptions of justice, the utility of formal law, and UN policy (structural approach). After initially generating the codebook, we recoded for transactional sex, sexual violence, formal law, systematic UN support, ad-hoc/informal support, UN policy, reporting to the UN, and poverty.

The "sensemaking" methodology was central to the theoretical contributions advanced in this paper in three key ways. First, by offering an opportunity for community members, who may or may not have been directly affected by SEA to share their experiences and thoughts on MONUSCO, we were able to develop a more holistic understanding of community concerns and priorities that would not be possible with targeted interviews only. Secondly, because we were able to determine who had first-hand experience with SEA, we were able to extract those SenseMaker responses as a distinct subset of the data, and qualitatively analyze the narratives, deeper insight was developed into the needs, experiences, and priorities of SEA survivors than would be possible with a general survey that did not include recorded narratives. Lastly, SenseMaker removes the requirement that individuals be "targeted," or invited to participate because they are known to have experienced SEA. In our approach, disclosure of SEA was entirely at the discretion of the participant. Discussions of law, justice, barriers to support, and other themes analyzed herein arose from the participants themselves and what they considered to be the most important issues to bring forward through their narratives.

Participants[8] who completed the SenseMaker survey and indicated they had had sexual interactions with a peacekeeper and/or were raising the child of a peacekeeper were invited to complete a longer, semi-structured interview with one of the two SOFEPADI team members. There were two versions of the interview guide[9]: one for women who were raising a PKFC and one for women who had sexual interactions with

[8] No men or boys in this research shared that they had experienced sexual exploitation and abuse. Abuse of boys by peacekeepers is not uncommon and has been identified in numerous recent or ongoing peacekeeping missions, including in Haiti and the Central African Republic. Particular attention to the needs and experiences of these boys and young men is necessary, and their gendered experiences and perceptions of justice would be an important site for future research, though one not without serious practical and ethical challenges.

[9] There was an additional interview guide and a series of interviews conducted with young people fathered by peacekeepers. Please see Kirstin Wagner's (2022) work for analysis of this data.

https://doi.org/10.1017/lsi.2025.7 Published online by Cambridge University Press

a peacekeeper (either consensual or non-consensual) but did not have a child with the peacekeeper. Both guides asked about the woman's experience with the peacekeeper, about reporting and knowledge of reporting avenues, the support provided by the peacekeeper, the mission or others, and how the woman was currently living (challenges, supports, needs). The interviews with women raising PKFC (n=60) and women who experienced sexual interactions but did not have a PKFC (n=12) were coded for the description of interaction (violent, consensual, transactional, romantic relationship), age of the participant, whether the incident was reported to the UN or an NGO, knowledge of how to report, systematic support, informal/ad-hoc support, age of the child, and the needs of the mother.

In March 2020, we held a focus group discussion (FGD) with women living near a peacekeeping base just outside of Goma in North Kivu province. The FGD was organized in collaboration with a local civil society organization (CSO)[10] and included eight female participants, who ranged in age from early 20s to early 40s. All were previously connected with the partner CSO. Results from the SenseMaker survey were presented and participants were invited to share their thoughts and reflections on the findings and on community relations with MONUSCO more generally. More FGDs were originally planned but were postponed indefinitely due to the COVID-19 pandemic and restrictions on gathering in groups. As such, we draw on the one FGD here in a targeted way to augment more robust findings from the SenseMaker survey data and follow-up qualitative interviews.

Ethics

In each phase of the research, we prioritized participant safety. Informed consent was received from all participants and no identifying information was collected. Community members were eligible to participate if they were aged fourteen or above. We included adolescent participants as it is well-known that they experience SEA; their experiences and insights are valuable, and it would be unethical to exclude them. Parental consent was not sought because this request could introduce parental bias and/or create conflict between the youth and their parents, particularly if they were not previously aware of the SEA and the SenseMaker study was deemed low-risk (Diaz et al. 2018; Weir 2019). Interview and FGD participants were aged eighteen and above. SenseMaker survey participants were not asked about SEA, sexual and gender-based violence, or directly about peacekeeper wrongdoing. Qualitative interview and FGD participants received refreshments during the research, interview participants were given phone credit so they could access support through a hotline we established in partnership with SOFEPADI, and FGD participants were provided with cash compensation to reimburse them for their time and transportation costs. SenseMaker survey participants did not receive compensation as the survey was very short (approximately fifteen minutes on average). Any participant who showed signs of distress or indicated a desire for support was immediately connected with the SOFEPADI researchers who provided psychological first aid and referral to longer-term services. This study protocol was approved by the institutional review boards of Queen's University (6019042) and the Congolese National Committee of Health Ethics

[10] The name of the CSO has been intentionally withheld here, at their request.

https://doi.org/10.1017/lsi.2025.7 Published online by Cambridge University Press

(CNES 001/DP-SK/119PM/2018). We will now turn to the legal plurality at play in cases of SEA by peacekeeping personnel.

MONUSCO, Legal Pluralism, and Accountability

Criminal and military trials both within DRC and at the International Criminal Court have achieved relatively progressive verdicts, including a recent finding of environmental destruction as a crime against humanity and rape as a crime against humanity,[11] the first conviction for crimes against humanity outside of war in the *Kavumu trials*, and the first ICC conviction for rape and sexual slavery, upheld on appeal, in *Prosecutor v. Ntaganda.*[12] While some domestic landmark cases involving civilian perpetrators have proven to be precedent-setting and widely recognized as reinforcing a zero tolerance toward sexual violence[13] and are both practically and discursively meaningful (Lake 2018), Eastern DRC remains a legally and logistically complex environment for pursuing legal accountability, including for sexual violence crimes. The plurality of legal operations and mechanisms within the DRC produces a complex terrain that, at times, provides redress, while in other cases justice is positioned as inaccessible or inapplicable. For survivors of violence, where, how, and whether they will be able to access justice depends on the status and identity of the perpetrator rather than the nature of the crime or harm suffered. We do not here make a normative argument for one mechanism over another; rather, we are interested in the justice consequences for and perceptions of survivors of SEA.

MONUSCO contributes its own legalistic norms to this pluralized context. This is partially through its institutional policies that act in a quasi-legal fashion and is further entrenched through the operations of the MOUs, underpinning and regulating states' contributions of peacekeeping troops. Differences in how SEA is considered, under what legal system it falls, and how the investigation and any subsequent trial/tribunal/disciplinary action is taken vary based on the TCC Legal Framework. For example, Canada deploys National Investigative Officers (NIOs) with each contingent. NIOs are responsible for investigating any allegations brought against service members. South Africa, one of the highest troop-contributing countries to MONUSCO, used to follow a similar model but then these NIOs were occasionally implicated in SEA themselves and so now they are deployed after a SEA allegation is received (a context explained within South Africa's legal framework itself). South Africa also

[11] Mihonya was originally tried in a civilian court but the case was later transferred to a military court based on the charges of war crimes and crimes against humanity. The involvement of international legal NGO TRIAL International was central to both the movement of the case and the prosecution.

[12] The first convictions for sexual violence crimes at the ICC were in prosecutor vs. Bemba, a Congolese national convicted for war crimes and crimes against humanity in Central African Republic, but these were overturned on appeal. Bosco Ntaganda was a commander in the FPLC, the militarized arm of the UPC armed group, and was convicted in 2019 by the ICC of numerous war crimes and crimes against humanity, including rape and sexual slavery.

[13] Here we can consider the Kavumu case, in which numerous politicians and state officials, including a high-ranking provincial politician, were convicted in December 2017 of gruesome sexual violence against very young girls in South Kivu. The case proceeded, in part, thanks to the methodical collection and preservation of physical evidence and witness statements by staff members of Panzi Hospital (Physicians for Human Rights 2017). It was the first trial where the gravity and scale of the crimes were used to warrant convictions of civilians under international criminal law.

https://doi.org/10.1017/lsi.2025.7 Published online by Cambridge University Press

holds court-martials in cases of alleged SEA, sometimes in the community the offense was said to have been committed in. South Africa has detailed parameters around what offenses can be charged under which acts and system (military justice vs. criminal charges):

> After the Senior Prosecutor determined that a prima facie case of SEA is present, the alleged offender's unit will be instructed to charge the member with SEA. Any person of higher rank or of an equal rank, but senior by virtue of appointment to the alleged offender, may charge the alleged offender for SEA. Military prosecution counsel will prosecute the matter in the military court.
>
> Military justice
>
> The military justice system of the South African National Defence Force (SANDF) is mandated by, functions within and is regulated by:
>
> (1) The Constitution.
>
> (2) The Defence Act, 1957, as amended.
>
> (3) The Defence Act, 2002.
>
> (4) The Military Discipline Supplementary Measures Act, 1999.
>
> (5) The First Schedule to The Defence Act, 1957, as amended.
>
> (6) Rules of Procedure to the Military Discipline Supplementary Measures Act, 1999.
>
> (7) South African Criminal Law and Law of Evidence.
>
> (8) South African Common Law.
>
> The abovementioned sources also provide the legal parameters within which members of the SANDF execute their official duties. It further strives to regulate the military justice system by providing for unique offences, investigation procedures, military courts, court procedures, unique punishments and other nonjudicial processes.

By contrast, Uruguay[14] does not hold court-martials in times of peace (within Uruguay) and offers a comparatively vague consideration of who can be charged in what instances within their Framework:

> Sexual Exploitation and Abuse acts only constitute a crime under the Uruguayan Law if they involve any sexual crime prescribed in the Uruguayan Criminal Code (rape, assault).
>
> Uruguayan civilian judges can bring charges for said crimes, based on the preliminary investigations held in the mission area regarding Sexual

[14] Uruguayan troops were accused of widespread SEA while deployed in Haiti (Lee and Bartels 2019)

https://doi.org/10.1017/lsi.2025.7 Published online by Cambridge University Press

> Exploitation and Abuse. On the other hand, SEA acts violate military directives regarding fraternization with local people and the prohibition to have sexual relations with them, and as such, they are prosecuted in the Military Justice.
>
> Military Justice
>
> Uruguayan Military Justice applies strictly to military crimes. An Officer of the Uruguayan Contingent is appointed as a Military Justice representative with full powers to act in preliminary findings of a court martial.

The differences in procedure, avenues for investigation, sites, opportunities for court-martials or trials, and understanding of what constitutes a criminal versus disciplinary offense vary significantly between TCCs. Thus, a survivor's chances of obtaining legal justice depend more on the nationality of the offender than on the quality of evidence against him or the nature of the harm suffered.

Mobilizations and Rejections of Law

During fieldwork in Goma, legal NGOs expressed frustration at the challenges they encounter in encouraging survivors to report allegations of SEA and to prevent withdrawal (either formal withdrawal or withdrawal through lack of follow-up) of reported allegations. It is common to want to report but when it becomes apparent that the process takes a very long time and that she is unlikely to receive much in the way of material support, women often choose to drop the complaint (see Tasker et al. 2023 for detailed discussion). Given that these are complaints lodged with legal NGOs and not directly to MONUSCO, if the survivor rescinds the allegation prior to the NGO reporting it to the MONUSCO conduct and discipline team (CDT), then it will not be included in the official UN statistics. Lawyers representing two separate NGOs stated that women are most likely to make an allegation if there is a paternity claim involved. The reason behind this is material: women need financial support to care for their children. This was also corroborated by MONUSCO CDT personnel, who reported that once it becomes clear that a complainant will not receive cash directly from the father or the UN and that the child support claim will need to be filed through the peacekeeper's national court system, many women drop their allegation.

This reveals several important findings: first, it demonstrates the immediacy of needs for women raising PKFC. While material support is necessary when considering a long and drawn-out process that feels inaccessible or is difficult to understand, women prefer to drop the allegation and attempt to secure support elsewhere. It also demonstrates a sharp disconnect between women's expectations and what the UN can offer. For mothers, it would seem obvious that they should have immediate access to the support they need if they have been encouraged to report, and if they are relatively confident they will be believed. The bureaucracy involved in the complicated UN legal process required to secure mandated child support does not

https://doi.org/10.1017/lsi.2025.7 Published online by Cambridge University Press

coincide with women's needs or expectations. When compared to negotiations without institutional involvement,[15] as often utilized in customary law, which some women may be more familiar with (see Lake 2018 and Dunn 2017), the process would seem even more opaque.

Issues of jurisdiction proved opaque for some survey participants who wanted to report peacekeeper sexual violence to local authorities, or who questioned why the UN did not put offending peacekeepers on trial or participate in the domestic courts doing so:

> The story I know is about the guys of Monusco. It was once in a bar commonly called [redacted]. It was near the market of Monusco, where there [was] a bar and a hotel where two militaries of Monusco loved a young lady who was not a minor. They got into a bedroom. They had [a] sexual relationship with the first one and then with the second one. One of them gave her $8. She was (dis) satisfied with the payment. She called the police. The policemen came and arrested the two guys [from] Monusco. They were taken to a police station called [redacted]. One of the UN militaries called his boss. The boss came to assist them and the case was closed. They were promptly freed without any trial. The young lady was shameful and blamed because she accepted to have [a] sexual relationship with two people without signing any contract.[16] It was ridiculous for local people and the lady when the two UN military were liberated. This is what I had to tell you. (18–24, Male, Bunia/Bukavu.)

The participant quoted above argues that community consensus was that the peacekeepers committed an inexcusable offense in underpaying the woman, which was positioned as a crime through their calling of the police and, as a result, should be punished. Their immediate release following the intervention of MONUSCO officials is an injustice. This framing did not prevent the young woman in the narrative from being stigmatized, but it does indicate that the community was unhappy with the lack of accountability for the peacekeepers. The police arresting the peacekeepers further demonstrates tensions between what local law enforcement considers their duty and responsibility; that is, the protection of the rights of this young woman, and the limitations imposed by the UN system. Local law enforcement was comparatively disempowered by the authority of the UN "bosses" who seemed to have the right to free their servicemen from Congolese custody. It is not clear what the police were planning to charge the peacekeepers with, whether it was a sexual assault-related offense, a breach of contract, or something else. Importantly, the exact "crime" seems less important for the narrator and, perhaps, for the woman and the police than the sense that a violation or abuse had occurred and that the peacekeepers should be punished for it. The narrator positions this punishment as appropriately resting with the Congolese police. MONUSCO's authority here was normatively rejected by community members but, practically, there was nothing more the Congolese police could do.

[15] Hereafter, we refer to this mode of negotiation as "direct" to indicate these did not occur through official channels or based on established protocols, but were instead conducted by the involved actors or their chosen intermediaries (see below unofficial police involvement, for example)

[16] It is not clear what sort of contract is being referred to here. We interpret it as, perhaps, an agreement for a set amount of money in advance but that is only a guess.

https://doi.org/10.1017/lsi.2025.7 Published online by Cambridge University Press

In the above case, we see how attempts to exercise accountability did not simply recede but were actively pushed back by the jurisdictional operations of the peacekeepers' home country operating through the UN system. The attempt to secure legal redress operates in contrast to narratives and interviews with women who experienced sexual violence, including rape, but did not frame their experiences in criminal law terms, instead using euphemisms such as "forced love," and insisting on the importance of financial support, rather than criminal prosecutions. These narratives point to a complex understanding of victimhood, one that formal law does not have ultimate authority to determine. Instead, injustice and harm are nuanced, as is the desired response. Sometimes, women draw on the power of law and legal actors to redress this harm, as illustrated in the narrative above wherein an arrest was made following underpayment for sex. In other cases, customary procedures are followed, with direct payment sought from the peacekeeper or his superior officer (FGD, March 2020) for child support, compensation for sex, or harm caused. The chosen route toward justice was determined less by the nature of the interaction between the peacekeeper and the woman and more by what options seemed most useful and accessible in each circumstance.

From the SenseMaker and follow-up qualitative interview data, it is clear that the vast majority of women have not initiated a formal complaint, despite 45 percent of interview participants (twenty-seven out of sixty[17]) knowing at least one way to make an allegation. Knowing how to report and choosing to do so are two different considerations. This provides some insight into participants' legal consciousness and how this is impacted by legal recessions in SEA cases: legal consciousness includes decisions *not* to engage law, often because of a lack of faith in a useful outcome, a belief that law is not intended to respond to these particular events, or because of competing interests or needs (Chua and Engle 2019). The below data demonstrates that, of the women who did report, almost none received their desired outcome of routine material/financial support. This lack of success is likely known by other women in the community and may act as a deterrent to future reporting. This deterrence contributes to the problem of legal recession: justice responses are withheld by the UN resulting in justice denied, which further dissuades justice-seeking, and positions SEA as outside the law's domain.

By contrast, some women did make claims to MONUSCO after sexual relationships with a peacekeeper. Take this woman's account, for example:

> I was a pupil; I did not keep up with my studies because of not being able to pay. Due to that, I was spending my day at the camp of MONUSCO. As I used to be there at the camp of Tanzanians. One MONUSCO agent fell in love with me, then we started going out together every Friday and Saturday. Finally, I became pregnant [with] him, and the man went away. With that situation, as I was not able to cover the needs, I went to accuse him at their office, but sometimes they could send me away, and some other times they could give me food up to the time I delivered. They even kept providing my child with some food. After such a long time, I could not be able to be received. Fortunately, we

[17] Women who had sexual interactions with peacekeepers but no child fathered by a peacekeeper (n=12) did not discuss reporting SEA.

https://doi.org/10.1017/lsi.2025.7 Published online by Cambridge University Press

> met this association which was in charge of teaching handcrafts, so I dealt with dressmaking so as to get rid of prostitution. Here, thanks to what they taught me, I can now embroider clothes. But as far as the Tanzanian is concerned, we do not talk over the phone anymore, and I do not even know where he is. Formerly he could talk to me. (Girl, 13–17, Goma, emphasis added)

Of the 215 first-person SenseMaker narratives shared by women who had sexual interactions with MONUSCO peacekeepers or were raising a PKFC, only five (2.3 percent) had attempted to report the sexual interaction/pregnancy. Of these, three (1.4 percent) stated explicitly that they attempted to report to MONUSCO, including these women:

> I was invited to a party (. . .) [on] the dance floor I saw a man coming close to me and started dancing with me. We gave each other the phone numbers. Two weeks later, he called me and arranged an appointment. We dated and had a long talk. Later, it was my turn to see him; we met sexually and got pregnant. My parents were informed that an agent of Monusco made me pregnant. My family called him out for a talk. He promised to give the dowry and to marry me. I realized later that he was a married man [and] father of seven children. He made me his second wife. We shared the same house with his wife. As I was too young to be not only married but also a second wife my family decided to take me away from that house and I returned home. He deceived [me] to give the dowry to my parents. We informed Monusco but it was in collusion with him. Since then, I developed a serious hatred against Monusco. (Woman, 18–24, Bunia, emphasis added.)

> He deceived me, after deceiving me; amazingly, I realized that I had slept with him already. He was taking care of me he was still here. I appeared in court and I was fired from Monusco. He told me he [would] be giving me $50 US. Unfortunately, after 3 months he was asked to move for rotation. When I went to Monusco, they told me he had gone, [and] there's no money to give you. My luck had gone. I kept my pregnancy to term. I was abandoned [and] now I'm living with my grandmother at hers. The individual who used to give me that money, the $50 US said the money is no longer sent. I can't terminate the pregnancy. The man went away and stopped sending money and we don't communicate anymore. (Woman, 18–24, Goma, emphasis added.)

These participants emphasized that they were "deceived" by the peacekeeper. Both instances involved agreed-upon payments (a dowry, $50) but when these were not paid the women attempted, unsuccessfully, to report to MONUSCO. Despite their reporting, they did not access routinized financial or material support. These experiences are notable for further understanding why women do or do not report; in these cases, there was a direct reneging of an agreed-upon payment, perhaps a more easily identifiable wrong committed by the peacekeeper that led women to feel empowered to report the offense.

Twenty-one out of sixty women raising children fathered by peacekeepers qualitative interview respondents (35 percent) reported their PKFC to MONUSCO personnel, most

https://doi.org/10.1017/lsi.2025.7 Published online by Cambridge University Press

often a member of the same contingent as the peacekeeper's father. Of the four interviewed women who reported having been raped (excluding cases of statutory rape), two reported the violence to MONUSCO. Neither of these women received regular, systematic support or a criminal accountability outcome. Seven women received irregular financial support, including food, temporary school fees for children, or cash from contingent commanders, contingent members, or the peacekeeper himself. There was no evidence that this compensation was known about by or commissioned through the CDT. Rather, it seems these were "under the table" supports (see also Tasker et al. 2023). This approach was recognized by CDT staff as being employed regularly. Thus, it appears that informal/irregular financial support operates as a norm for both affected women and peacekeepers and is relied upon as compensation for a variety of sexual interactions, including sexual assault. Thus, even when the UN coincidentally seems to share the sense of the interaction not being a crime or not being worthy of criminal prosecution, survivors nonetheless are left empty-handed, without any form of justice.

The March 2020 FGD revealed an ambivalence bordering on disdain for reporting sexual interactions with peacekeepers. Women indicated through metaphor that peacekeepers sometimes pay more for sex than local men but sometimes they are selfish and do not. Breaking down the differences between peacekeepers and Congolese men was particularly important to one woman, the most vocal of the group, who explained that it's very normal to have a "sugar daddy" and this person could be White or Black, that some Congolese men are wealthy and will give women a lot of money, and that if they were not expected to report such interactions occurring with Congolese men it was illogical to expect it for peacekeepers: "No one cares if it's with a Congolese, so why would we report when it's with MONUSCO?" When asked specifically about sex with young girls, the women were forceful in their response, explaining that sex with girls under the age of 18 is illegal in DRC and that the law is enforced through prison time. They insisted that Congolese men who have sex with underage girls are regularly put in prison by police. When asked about rape, the women said that peacekeepers do not rape women in DRC and that it has never happened and would never happen. However, if it did happen, the women reported they would like to beat and stone the peacekeeper, especially if the victim was young.

This direct, interpersonal response to violence was also employed in the discussion of hypothetical cases where a woman had sex with a peacekeeper and wanted money from him. Rather than reporting to the UN, which, as established, the women all considered a ridiculous notion, they would instead turn to local police to help. Police officers would visit the peacekeeper and demand he pay a certain sum to the woman. It was explained that if he did not have any money, his contingent members or his commander could pay. The police officer would extort the money from the peacekeeper by threatening to arrest him. It was not specified if the police officer would be given a share of the received funds for his involvement but it is likely,[18] and, although not explicitly stated, we assume the officer typically got a share. This did not appear to be an isolated incident: when one woman described this scenario, other

[18] Police officers regularly augment their low salaries by "fining" individuals for real or manufactured offenses. Tasker had to pay a "fine" while in Goma in 2018 after being stopped on the side of the road with two colleagues and our driver. The exact offense we were fined for was not clearly specified but had something to do with irregularities with our vehicle.

https://doi.org/10.1017/lsi.2025.7 Published online by Cambridge University Press

focus group participants nodded in agreement and there seemed consensus that this was often a useful strategy. It is not clear if the peacekeeper actually believed he could be arrested by a Congolese police officer, which would demonstrate a deep lack of understanding of his national MOU and the legal basis by which he served in the DRC, or if he was instead concerned about reporting and escalation were he not to pay. This system is operating as informal law: in the absence of usable official systems or structures for women (and the police) to access the funds they feel they are entitled to, they have developed a strategy that is accepted, or at least submitted to, by comparatively more powerful actors, that is, the peacekeepers. Responding to the authority and force of law via the police, exacerbated by likely concerns with formal disciplinary actions, the peacekeepers acquiesce to the women's demands, the group reported.

Uneven Outcomes

The outcomes of SEA, reporting attempts, and community perceptions varied based on a number of key factors but were impacted by economic considerations and disconnects between women's priorities and UN responses. If women were compensated well after having sex with a peacekeeper, the interactions were often considered positively by the community whereas women who were not compensated were looked down upon:

Interviewer: Ok, and today how are your family relatives and the community considering you and your child you made with a Monusco agent?
Participant: Well, many mock and laugh at me. Some women laugh at me because they were lucky to get much money, plots of land and houses from their Monusco boyfriends.
Interviewer: Ok, what words do they use to laugh at you?
Participant: They say I'm miserable and cursed for not having been offered a land plot or a house by my South African husband. (Int. S72, Bukavu.)

This pattern demonstrates a general acceptance of sexual relations with peacekeepers that are considered to be in the best interest of the women involved; interactions that worsen their conditions are less legitimate, exploitative, or abusive. This perception directly contradicts the UN zero-tolerance policy: employment or exchange of money for sex is strictly forbidden by the UN and is always considered an abuse of trust and power. Here then, we can see how the establishment of the 2003 zero-tolerance policy fails to align with community priorities and perceptions of norms and desirable outcomes in sexual interactions. Beyond the policy, in some of these cases, criminal law may be relevant also (cases of sex with minors, for example, or sex work/prostitution depending on the TCC). Yet it is unlikely women who receive financial or material benefits would consider pursuing criminal charges, as demonstrated by the FGD participants and the SenseMaker data.

Across narratives shared by affected women, a preference for direct, financial support was clear. Whether lack of knowledge about how to formally report was a contributing factor in this preference varied: women in the FGD indicated that, if desired, one could make a formal report of peacekeeper SEA to the local police, while

https://doi.org/10.1017/lsi.2025.7 Published online by Cambridge University Press

only twenty-seven out of sixty mothers of PKFC indicated they knew how to report their pregnancy/child and indicated a viable way of doing so; that is, reporting to the UN, to another peacekeeper, to a local organization, to an international organization, or a hospital.

Importantly, of the twenty-seven mothers interviewed, who both knew they could report their pregnancy and knew of at least one viable way to do so, only five did *not* make any attempt to report; it was more common for women to attempt to report and then decide not to pursue the case when they did not receive a prompt or supportive response. Concerningly, numerous stories were shared by interview participants who tried to report and either did not receive timely updates or had meetings repeatedly canceled so they dropped the matter:

> I reported this problem to his officials, and they promised that they would relay this information to whom it might concern. They listened to us and seemed to sympathize with us ... All the ladies who had children with their employees were requested to meet quite often in order to collect our pleas ... However, whenever we showed up for the meeting, it was always put off again until we got discouraged and dropped it. (Int. 28.)

> My family and I followed up at MONUSCO, but we got disappointed. They were only moving us around with the case. (Int. 55.)

Both of these women engaged directly with MONUSCO in their attempts to report and were initially encouraged in these efforts but the lack of follow-through and consistent communication led them to eventually give up their attempts to seek redress. Some women tried to report but did not have their allegations formally registered. Others received informal support as discussed above. One woman attempted to report a child only to be told to "take good care of him" (Int. 88). This lack of consistency or procedural follow-through is indicative of a lack of consistent oversight and a routine de-prioritization of SEA cases.

It is not known how long it took for these cases to be followed up.[19] It is possible that was considered an unacceptable length of time for the women within UN procedures. This would indicate another important disconnect between MONUSCO and affected women, demonstrating uncommunicated differences in their conceptions of timeliness, expectations, and justice, and could be an important point for improved communications through UN outreach. Here again, justice in any and all forms recedes through a lack of attention and care for women trying to report and access support following SEA, in turn deterring women from making future reports or following through on allegations.

It is also possible, as explained by NGO-based lawyers, that knowing they are unlikely to receive cash from the UN may well deter women from pursuing complaints. This formulation occurs alongside the perception that reporting peacekeeper SEA makes little sense, practically or logically, when they would not consider reporting local men for similar behavior as was made clear by FGD

[19] Admittedly, this is a limitation of the SenseMaker research methodology since narratives are anonymous and enumerators do not intervene to ask clarifying questions.

https://doi.org/10.1017/lsi.2025.7 Published online by Cambridge University Press

participants. Justice, then, again effectively recedes for women in these situations: through practical cost-benefit analyses made by women living in poverty who recognize little opportunity for a meaningful response, and survivors may choose not to pursue reporting after making an initial attempt. This both precludes whatever little chance for justice women had and further reinforces the notion that women do not consider SEA a problem and/or occludes the scale of SEA.

Conclusion

Within Eastern DRC and specifically in relation to sexual harms, MONUSCO simultaneously promotes the rule of law ordering and redress for sexual violence while effectively withdrawing these rights from victim-survivors of peacekeeper SEA through jurisdictional limitations, procedural flaws, and a refusal to recognize their experiences as sexual violence. Paradoxically, this latter framing is consistent with how survivors often think of SEA too; not as a crime but as an obligation to financially support them and their children. SEA, then, occurs in a gray zone between legal response and ethical treatment, with both criminal sanctions and economic justice as inaccessible to survivors of SEA. Thus, the legally plural environment does not provide more practical options for justice to survivors.

Different systems and operations of law intersect and interact, sometimes constructively and sometimes not, but remain just out of reach for SEA victim-survivors based on the status of the perpetrator rather than the alleged act. Survivors are not permitted to engage in localized legal processes due to the jurisdictional limitations built into the Memoranda of Understandings and SOFAs underpinning the peacekeepers' legal status on the mission (Freedman 2018). Despite SEA occurring against Congolese women, the Congolese legal system is inaccessible to survivors of these offenses. Instead, they are left to rely on bureaucratic and policy processes within the UN and the willingness and ability of the troop-contributing country to pursue prosecution. Few studies in socio-legal studies have explored the impact of competing normative orders in humanitarian settings such as the DRC.

Throughout this complex legal terrain, we have seen differing mobilizations of law for accountability and redress. While NGOs, both local and international, emphasize legal accountability and anti-impunity as the best source of deterrence, prevention, and justice for SEA, jurisdictional and practical limitations abound, making criminal prosecutions few and far between. Important disconnects between UN procedure and women's needs reduce SEA reporting, and the uneven and uncertain outcomes for women who do report, further evidence challenges in accessing support and accountability. Despite a hyper-emphasis by international actors on combatting impunity and securing legal responses, law, in all its pluralized forms, recedes in cases of SEA. This recession is due either to jurisdictional limitations, inaccessibility or unsuitability of UN procedures, lack of care and follow-through, or women's rejection of criminal justice framings of their sexual interactions with peacekeepers. This results in justice denied for survivors of criminal sexual abuse, and the law remains an inappropriate and inaccessible option for survivors of non-criminal exploitation who nonetheless are entitled to support and child maintenance in the event of a pregnancy (Tasker et al. 2023).

https://doi.org/10.1017/lsi.2025.7 Published online by Cambridge University Press

To meaningfully respond to SEA, ensure accountability, and provide support to affected community members, a serious revision of UN responses to SEA is necessary. Important provisions in the form of psycho-social support, vocational training, and education for PKFC have been offered by the Trust Fund in Support of Victims of Sexual Exploitation and Abuse.[20] This is an important development as it is not dependent on prosecution. Despite the operation and expansion of these activities, significant numbers of survivors are left unsupported and only one woman in this research mentioned Trust Fund related activities.[21] Further, the Trust Fund has explicitly been positioned by the UN as a way to provide support for survivors and prevent some instances of SEA; it is not considered a mode of redress, which the UN maintains is the responsibility of TCCs/Member States. One of the few avenues of support available is thus specifically placed outside the realm of justice, with a potential impact on how women do and do not conceptualize SEA and their right to a remedy following this abuse. Despite UN training and rhetoric that SEA is a rights violation, the UN fails to provide accessible remedies for this violation and, as demonstrated above, fails to consistently support women to access justice through their own established mechanisms.

In this way, justice is made inaccessible and the potential for legal remedy is pulled away from the few women who seek it. Trust Fund activities should be repositioned as interim reparations programs[22] in recognition of SEA as an important rights violation and to afford survivors an opportunity to exercise their right to remedy (Ferstman 2020; Sutera 2020). This shift is more than rhetorical; interim reparation programs maintain the obligation of perpetrators/responsible states to provide reparation, a position regularly espoused by the UN, while also ensuring survivors are recognized as having experienced meaningful harm in violation of their rights and ensuring they have access to effective remedy and reparation.

Lubaale (2019) argues for recognition of and partnership between international criminal law and traditional justice mechanisms to utilize empirical legal pluralism to advance justice pluralism. In this way, there need not be a trade-off between peace and justice (Ruhweza 2016). Rather than dismissing customary law, the UN could meaningfully partner with customary justice leaders to advance responses to SEA that are meaningful for survivors. These then might be intersected with and mobilized through Trust Fund activities. Given the serious limitations to achieving liberal justice and the rejection of liberal framings by many survivors, this could represent an impactful shift in justice responses to SEA.

Our research has demonstrated the imperative to simultaneously recognize harms suffered and provide the form of support and remedy most requested by survivors, while still insisting on dual state and UN responsibility for prevention and response to SEA. Together, this provides a multi-faceted justice that helps meet the needs of survivors and demonstrates a commitment to upholding their rights through all available avenues within a complex and legal plural context.

[20] See: un.org/preventing-sexual-exploitation-and-abuse/content/trust-fund

[21] As mentioned, the Trust Fund has grown since this research was conducted in 2018 so it is possible that, if conducted again today, more survivors may indicate having received support.

[22] See Global Survivors Fund Interim Reparations Programmes for affordable and feasible examples: https://www.globalsurvivorsfund.org/how-we-work/act-in-the-interim/

https://doi.org/10.1017/lsi.2025.7 Published online by Cambridge University Press

Acknowledgments. Thank you to the anonymous reviewers who so thoughtfully and constructively engaged with our manuscript. Thanks also to Amelie Barras, Emily Lockhart, and Mohamed Sesay for their helpful and supportive contributions to the development of this work. Our gratitude also to Sandrine Lusamba, Aimee Katsetse, Jacqueline Alinga, and the team at Marakuja Kivu Research for their collaboration in the larger project from which this paper draws. We extend our sincere thanks to all Congolese community members who took the time to share their experiences and perspectives for this project.

Funding. This research was funded by the Social Science and Humanities Research Council (Grant number 642571).

IRB Approvals. Queen's University (6019042); Congolese National Committee of Health Ethics (CNES 001/DP-SK/119PM/2018)

References

Acland, O. "Sarah said she was raped by peacekeepers. The UN offered her $50." *1843 Magazine, The Economist* (March 15, 2023). Available at: https://www.economist.com/1843/2023/03/15/sarah-said-she-was-raped-by-peacekeepers-the-un-offered-her-50

Aroussi, S. Perceptions of justice and hierarchies of rape: Rethinking approaches to sexual violence in Eastern Congo from the ground up. *International Journal of Transitional Justice*, 12, no. 2 (2018): 277–95.

Baaz, M. E., and M. Stern. *Sexual violence as a weapon of war?: Perceptions, prescriptions, problems in the Congo and beyond*. London, UK: Bloomsbury Publishing, 2013.

Bartels, Susan Andrea, et al. "SenseMaker® as a monitoring and evaluation tool to provide new insights on gender-based violence programs and services in Lebanon." *Evaluation and Program Planning* 77 (2019): 101715.

Bunting, A. (2005). "Stages of Development: Marriage of Girls and Teens as an International Human Rights Issue" *Social and Legal Studies* 14, no. 1 (2005): 17–38 (Special Issue: "Sexualized Movements, Gendered Territories & Global Governance.")

Burke, R. "Shaming the state: Sexual offences by UN military peacekeepers and the rhetoric of zero tolerance." In *Rethinking peacekeeping, gender equality and collective security*, edited by G. Heathcote and D. Otto. London, UK: Palgrave MacMillan, 2014.

Chopra, T., and D. Isser "Access to justice and legal pluralism in fragile states: The case of women's rights." *Hague Journal on the Rule of Law* 4, no. 2 (2012): 337–58.

Chua, L. J., and D. M. Engel "Legal consciousness reconsidered." *Annual Review of Law and Social Science* 15 (2019): 335–53.

Connors, J. "A victims' rights approach to the prevention of, and response to, sexual exploitation and abuse by United Nations personnel." *Australian Journal of Human Rights* 25, no. 3 (2019): 498–510.

Corradi, G. "Human rights and legal pluralism: Four research agendas. In *Human Rights Encounter Legal Pluralism: Normative and Empirical Approaches*, edited by G. Corradi, E. Brems and M. Goodale. London, UK: Bloomsbury Publishing.

DeCuir-Gunby, J. T., P. L. Marshall and A. W. McCulloch. "Developing and using a codebook for the analysis of interview data: An example from a professional development research project." *Field Methods* 23, no. 2 (2011): 136–55.

Dunn, H. (2017). The transitional justice gap: Exploring 'everyday' gendered harms and customary justice in South Kivu, DR Congo. *Feminist Legal Studies* 25, no. 1 (2017): 71–97.

—— "Emergent legal pluralism: Legal consciousness and unanticipated outcomes of rule of law building in Eastern Democratic Republic of Congo." (Doctoral dissertation) University of Minnesota, Minneapolis, 2018.

—— "Emergent Hybrid Legality: A Study of Legal Encounters in the DRC." *Journal of Intervention and Statebuilding* 15, no. 2 (2021): 201–220.

Engle, K. "Feminist governance and international law: From liberal to carceral feminism." In *Government Feminism: Notes from the field*, 690, edited by Janet Halley, Prabha Kotiswaran, Rachel Rebouché and Hila Shamir. *U of Texas Law, Public Law Research* Paper, University of Minnesota Press, 2018.

—— *The grip of sexual violence in conflict: Feminist interventions in international law*. San Francisco, CA: Stanford University Press, 2020.

https://doi.org/10.1017/lsi.2025.7 Published online by Cambridge University Press

Ewick, P., and S. Silbey. "The structure of legality: The cultural contradictions of social institutions." In *The Study of Legality: Essays in Honor of Philip Selznick*, edited by R. Kagan, M. Kryger and K. Winston. Berkeley: University of California Press, 2002.

Ferstman, C. (2020). Reparation for sexual exploitation and abuse in the (post) conflict context: The need to address abuses by peacekeepers and humanitarian aid workers. In *Reparations for victims of genocide, war crimes and crimes against humanity*, edited by C. F. Ferstman and M. G. Goetz, 271–297. Brill Nijhoff, 2020.

Freedman, R. UNaccountable: "A New Approach to Peacekeepers and Sexual Abuse." *European Journal of International Law* 29, no. 3 (2018): 961–85.

Helbling, J., W. Kälin and P. Nobirabo. "Access to justice, impunity and legal pluralism in Kenya." *The Journal of Legal Pluralism and Unofficial Law* 47, no. 2 (2015): 347–67.

Houge, A. B., and K. Lohne. "End Impunity! Reducing Conflict-Related Sexual Violence to a Problem of Law." *Law & Society Review* 51, no. 4 (2017): 755–89.

Human Rights Watch. Justice on Trial: Lessons from the Minova Rape Case in the Democratic Republic of Congo, 2015. Available at: https://www.hrw.org/report/2015/10/01/justice-trial/lessons-minova-rape-case-democratic-republic-congo

Kirby, Paul. "Ending sexual violence in conflict: the Preventing Sexual Violence Initiative and its critics." *International Affairs* 91, no. 3 (2015): 457–72.

Kovatch, B. "Sexual exploitation and abuse in UN peacekeeping missions: A case study of MONUC and MONUSCO." *The Journal of the Middle East and Africa* 7, no. 2 (2016): 157–74.

Lake, M. *Strong NGOs and weak states: Pursuing gender justice in the Democratic Republic of Congo and South Africa*. Cambridge, UK: Cambridge University Press, 2018.

Lake, M., I. Muthaka and G. Walker. "Gendering Justice in Humanitarian Spaces: Opportunity and (Dis) empowerment Through Gender-Based Legal Development Outreach in the Eastern Democratic Republic of Congo." *Law & Society Review* 50, no. 3 (2016): 539–74.

Lee, S., and S. Bartels. "'They Put a Few Coins in Your Hand to Drop a Baby in You': A Study of Peacekeeper-fathered Children in Haiti." *International Peacekeeping* 27, no. 2 (2020): 177–209.

Lubaale, E. C. "Legal pluralism as a lens through which to understand the role and place of TJMS in international criminal justice." *The Journal of Legal Pluralism and Unofficial Law* 52, no. 2 (2020): 180–202.

Meger, S. "Toward a feminist political economy of wartime sexual violence: The case of the democratic republic of Congo." *International Feminist Journal of Politics* 17, no. 3 (2015): 416–34

—— "The fetishization of sexual violence in international security." *International Studies Quarterly* 60, no. 1 (2016): 149–59.

—— *Rape loot pillage: The political economy of sexual violence in armed conflict*. Oxford, UK: Oxford University Press, 2016.

Merry, S. E. "Legal pluralism." *Law & Society Review* 22, no. 5 (1988): 869–96.

—— "Legal Transplants and Cultural Translations: Making Human Rights in the Vernacular." In *Human Rights and Gender Violence: Translating International Law into Local Justice*, 134–46, 151–66. University of Chicago, 2006.

—— *Human rights and gender violence: Translating international law into local justice*. University of Chicago Press, 2006.

Moore, S. F. "Law and social change: The semi-autonomous social field as an appropriate subject of study." *Law & Society Review* 7, no. 4 (1972): 719–46.

Morse, Jaimie. "The Geopolitics of "Rape Kit" Protocols: Historical Problems in Translation as Humanitarian Medicine Meets International Law." *Osiris* 36, no. 1 (2021): 200–18.

Oldenburg, S. "The politics of love and intimacy in Goma, Eastern DR Congo: Perspectives on the market of intervention as contact zone." *Journal of Intervention and Statebuilding* 9, no. 3 (2015): 316–33.

Otto, D. "Making sense of zero tolerance policies in peacekeeping sexual economies." In *Sexuality and the law: Feminist* engagements, 277–300, edited by V. Munro and C. Stychin. Routledge- Cavendish, 2007.

Prosecutor v. Bosco Ntaganda: 8 July 2019, ICC-01/04-02/06.

Prosecutor v. Jean-Pierre Bemba Gombo; 8 June 2018, Judgment on the appeal of Mr Jean-Pierre Bemba Gombo against Trial Chamber III's "Judgment pursuant to Article 74 of the Statute, No. ICC-01/05-01/08 A

Provost, R. "FARC justice: Rebel rule of law." *UC Irvine Law Review* 8, no. 2 (2018): 227–74.

—— *Rebel Courts: The Administration of Justice by Armed Insurgents*. Oxford University Press, 2021.

https://doi.org/10.1017/lsi.2025.7 Published online by Cambridge University Press

Provost, R. and Sheppard, C. *Dialogues on Human Rights and Legal Pluralism*. Aufl. Vol. 17. Dordrecht: Springer Netherlands, 2013.
REDRESS; Child Rights International (CRIN) Litigating Peacekeeper Child Sexual Abuse, 2019. REDRESS and CRIN. Available: https://static1.squarespace.com/static/5afadb22e17ba3eddf90c02f/t/5e28748055bf7f2c6c098a7c/1579709791021/litigating_peacekeepers_version_final_21_Jan.pdf
Reiz, N., and S. O'Lear. "Spaces of violence and (in) justice in Haiti: A critical legal geography perspective on rape, UN peacekeeping, and the United Nations status of forces agreement." *Territory, Politics, Governance* 4, no. 4 (2016): 453–71.
Ruhweza, Daniel Ronald. "Situating the Place for Traditional Justice Mechanisms in International Criminal Justice: A Critical Analysis of the Implications of the Juba Peace Agreement on Reconciliation and Accountability." PhD thesis, University of Kent, 2016.
Sahin, B. (2020). *Sexual violence crimes and gendered power relations: Bringing justice to women in the Democratic Republic of the Congo*. Oxfordshire, UK: Routledge, 2020.
—— "Mobile hearings in the Eastern DRC: Prosecuting international crimes and implementing complementarity at national level." *Journal of Eastern African Studies* 15, no. 2 (2021): 297–316.
Seelinger, Kim Thuy. "Close to home: A short history, and rough typology, of national courts prosecuting wartime sexual violence." *Journal of International Criminal Justice* 18, no. 2 (2020): 219–42.
Sutera, S. "Sexual Exploitation and Abuse in Peacekeeping: Making Human Rights Obligations Universal." *Peace Human Rights Governance* 4, no. 2 (2020): 161–88.
Sweetser, C. E. "Providing effective remedies to victims of abuse by peacekeeping personnel." *NYUL Rev.* 83 (2008): 1643.
Swenson, G. "Legal pluralism in theory and practice." *International Studies Review* 20, no. 3 (2018): 438–62.
Tasker, H., T. Atim, T. and S. Bodineau. "The Gender Equality and Peacebuilding Imperatives of Supporting Children Born of War." Policy brief commissioned by Global Affairs Canada and SSHRC, International Policy Ideas Challenge. December 2020.
Tasker, H., A. Bunting, K. Van der Werf and S. Bartels. "'Those MONUSCO Agents Left While We Were Still Pregnant': Accountability and Support for Peacekeeper-Fathered Children in the DRC." *Journal of Peace Research* (2023)
Tasker, Heather. ""Justice Must be Done": Legal Engagements and Gendered Harms Following Peacekeeper Perpetrated Sexual Exploitation and Abuse in the Democratic Republic of Congo." Doctoral dissertation. York University, 2023.
——, et al. "'Those MONUSCO agents left while we were still pregnant': Accountability and support for peacekeeper-fathered children in the DRC." *Journal of Peace Research* 61, no. 6 (2024): 1019–34.
TRIAL International "DRC: Former militiaman Chance sentenced to life in South Kivu", 14 September 2021. Available at: https://trialinternational.org/latest-post/environmental-crimes-brought-before-the-court-in-south-kivu-drc/
UN General Assembly, *Rome Statute of the International Criminal Court (last amended 2010)*, 17 July 1998, ISBN No. 92-9227-227-6, available at: https://www.refworld.org/docid/3ae6b3a84.html
UN Secretary-General. "Bulletin on Special Measures for Protection from Sexual Exploitation and Sexual Abuse," 2003. Doc. ST/SGB/2003/13
United Nations General Assembly. "United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel," 2008: resolution / adopted by the General Assembly. A/RES/62/214.
——. "Special Measures for Protection from Sexual Exploitation and Abuse: A New Approach." Seventy-first session. Agenda items 134, 139, and 149, 28 February 2017.
De Vos, Christian M. Complementarity, Catalysts, Compliance: The International Criminal Court in Uganda, Kenya, and the Democratic Republic of Congo. Vol. 147. Cambridge, UK: Cambridge University Press, 2020.
Wagner, K., Bartels, S. A., Weber, S. and Lee, S. "'White Child Gone Bankrupt'—The Intersection of Race and Poverty in Youth Fathered by UN Peacekeepers." *Culture, Medicine, and Psychiatry* 46, no. 3 (2022): 654–78.
—— (2022). UNsupported: the needs and rights of children fathered by UN peacekeepers in the Democratic Republic of Congo. *Human Rights Review* 23, no. 3 (2022): 305–32.

https://doi.org/10.1017/lsi.2025.7 Published online by Cambridge University Press

Wagner, K., Glaesmer, H., Bartels, S. A. and Lee, S. "'If I was with my father such discrimination wouldn't exist, I could be happy like other people': A qualitative analysis of stigma among peacekeeper fathered children in the Democratic Republic of Congo." *Conflict and Health* 14, no. 1 (2020): 1–15.

Wagner, K., Tasker, H., Vahedi, L., Bartels, S. A. and Lee, S. "Born between war and peace: Situating peacekeeper-fathered children in research on children born of war." *Frontiers in Political Science* 4 (2022): 1–21.

Whittle, D. "Peacekeeping in conflict: The Intervention Brigade, MONUSCO, and the application of international humanitarian law to United Nations forces." *Georgetown Journal of International Law* 46 (2014): 837–75.

Zeid Ra'ad Al Hussein. "A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations," 2005. A/59/710 United Nations General Assembly 59th Session, Agenda Item 77 Comprehensive review of the whole question of peacekeeping operations in all their aspects.

Cite this article: Tasker, H., Bunting, A., and Bartels, S. A. (2025). 'Peacekeeper-perpetrated sexual exploitation and abuse in the Democratic Republic of the Congo: Legal pluralism and legal recession'. *Law & Social Inquiry*. https://doi.org/10.1017/lsi.2025.7