

Appendix A

REPORT ON THE SUCCESSES AND CHALLENGES OF USING THE SEXUAL ASSAULT FORENSIC EXAMINATION CERTIFICATE IN THE SOUTH KIVU PROVINCE OF THE DEMOCRATIC REPUBLIC OF THE CONGO

1. Background and Context of the Initiative

Since the onset of the new wave of mass human rights violations in eastern DRC in 1998, which are rooted in the armed conflicts in this part of the country, stakeholders both in government and civil society, as well as a few international NGOs, have become involved specifically in the prevention of sexual violence committed and reported in eastern DRC. To this end, these stakeholders have pursued initiatives focusing on the collection of data on sexual violence, capacity building for key stakeholders, holistic care for victims and legal assistance, as well as advocacy and lobbying efforts to find solutions for the many different needs of rape victims.

However, following this strategic approach, during the time I served as the Presiding Judge of the District Court of Uvira in South Kivu, the results of the inquiries my fellow judges and I conducted from 2011 to 2013 on the main causes of impunity of sexual violence, showed that a lack of evidence was the second most prevalent cause, after the insecurity resulting from the armed conflicts in the DRC. Among the lacking evidence, it was concluded that medical examinations of female rape victims were often not well documented, interpreted, established and retained by the stakeholders involved in the chain of evidence of rape.

The same inquiry results also indicated that health professionals often produced medical reports under several different names in response to requests for medical examination reports sent to them by Judicial Police Officers (OPJs) and magistrates. Some of the medical reports sent to the prosecutor's offices and to the courts by doctors and nurses suffered a lack of professionalism and helpful information that would allow the magistrates to reach a conclusion as to whether or not a rape had occurred. Under these conditions, it was difficult to evaluate the efficacy of forensic evidence in proving sexual violence crimes in this province.

It was in this context that the international NGO Physicians for Human Rights (PHR) contributed to strengthening the capacity building of health professionals (doctors and nurses) and legal professionals (magistrates, OPJs and attorneys) in South Kivu on techniques for police and court investigations, as well as for establishing forensic evidence of sexual violence. PHR's activities fostered constructive exchanges on the common understanding of medical and legal language within the context of interpreting medical examination certificates or reports to facilitate the process of proving rape offences.

2. Results of the Use of the Forensic Certificate

After completing a series of PHR trainings in Bukavu on the matter of preventing impunity of sexual violence crimes through the establishment of forensic evidence, we started creating a permanent cooperative framework in Uvira, the seat of the vast jurisdiction of the District Court, bringing together civil and military magistrates, doctors, OPJs, attorneys and delegates from civil society organizations, with a view of experimenting the use of a common format for the medical certificate.

In my capacity as the Presiding Judge of the District Court of Uvira, which covered the entire South Kivu province except the city of Bukavu, in partnership with PHR, I worked with the doctors'

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representative and member of the established network, to obtain a batch of 200 standardized medical certificates of sexual assault, for experimental use, to be distributed to the various medical facilities within the territories of Uvira and Fizi for a period of six months.

At the end of this period, it was observed that, of the 200 medical certificates of sexual assault filled out by the doctors and nurses who received them in these two territories, 110 had been sent by the doctors and nurses to the OPJs, magistrates of the prosecutor's office, and judges of the District Court and the military garrison of Uvira. Of the 110 medical certificates sent to the courts, 96 enabled the judges of the District Court and the military garrison of Uvira to prove crimes of rape committed against female victims that led to the conviction of the perpetrators.

The success of the use of this common-format medical certificate of sexual assault in the territories of Uvira and Fizi is further supported by the fact that its content is easily understood by the OPJs and civil and military magistrates, because PHR had given them a glossary of medical terms commonly used in cases of sexual violence, for use in interpreting the conclusions of the physicians who consulted and treated the victims.

It was under these conditions that the common-format medical certificate tested by PHR, in cooperation with the stakeholders involved in the chain of forensic evidence of sexual assault, was successful enough to be gradually introduced to the rest of the medical facilities and courts of the South Kivu province.

3. Difficulties/Challenges Encountered

During this period of time when health professionals, OPJs and magistrates experimented with the medical certificate of sexual assault in the territories of Uvira and Fizi, the problems listed below were pinpointed as the main difficulties and challenges encountered to date.

1. In 2013, there was a transfer of most of the magistrates and OPJs who had been trained by PHR and were already involved in using the standardized medical certificate, to other provinces in the country.
2. The lack of financial resources to preserve the medical certificates already used by the magistrates and doctors.
3. The quasi-permanent insecurity in the two territories, which prevented the members of the network from easily introducing the use of the forensic certificate of sexual assault.
4. The resistance, on the part of certain doctors, against consulting and treating the victims of sexual assault "free of charge," despite legal requirements on the matter and despite efforts by the coordinating members of the Uvira network to raise their awareness.
5. An insufficient number of doctors, nurses, OPJs, attorneys and magistrates trained by PHR throughout the entire South Kivu province in 2013, to spread the use of the standardized medical certificate.

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