

The case of Kavumu: a model of medicolegal collaboration



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Introduction

On July 27, 2018, in a landmark judgment, the High Military Court in the Democratic Republic of the Congo (DRC) upheld the conviction of 11 men, including a provincial lawmaker, who had been found guilty in December, 2017, of crimes against humanity for the rape of dozens of young girls and for murder in the village of Kavumu.¹ This decision was the first successful conviction of sexual violence as a crime against humanity in the DRC for a sitting lawmaker. It is the culmination of 5 years of groundbreaking work by many national and international stakeholders, especially by Congolese medical, psychological, and legal professionals. For a country where sexual violence prosecutions often fail because of the absence of adequate evidence² and commitment by the authorities, nothing about the outcome of this case was a foregone conclusion. But the historic judgment confirmed what can happen when clinicians, police officers, lawyers, and judges work together in pursuit of justice for survivors of sexual violence.

Targeting young girls

For more than 3 years, starting in 2013, in the village of Kavumu in South Kivu, DRC, approximately 42 young girls between the ages of 18 months and 11 years were abducted from their homes in the middle of the night, taken to a nearby field, raped, and abandoned. The physical and psychological injuries these girls sustained were profound, and almost all the young survivors had to be referred to Panzi General Reference Hospital,³ a major medical facility just outside of Bukavu, the capital of South Kivu, for specialised, holistic care in its world-renowned sexual violence clinic.⁴ At Panzi General Reference Hospital, the children received acute and ongoing care. Clinicians within this specialised unit, who had been trained by Physicians for Human Rights (PHR) to capture forensic medical evidence of sexual violence, documented the forensic medical findings (panel 1).

But despite efforts by Panzi General Reference Hospital's affiliated legal clinic to pursue prosecutions for these sexual assaults, and despite substantial national and international media and advocacy efforts to bring attention to these cases, the civilian authorities who oversee legal processes in the Kavumu region would not initiate a serious investigation.^{6,7} It was only in early 2016 that police officers detected that a local armed militia was carrying out the attacks under the leadership of Frederic Batumike—a powerful sitting member of the provincial parliament who enjoyed immunity under Congolese law.

In March, 2016, with the civilian justice process stalled, military justice officials, who had amassed important training and experience in handling cases of international

crimes, assumed jurisdiction over the cases. The justice officials argued that the violations should be considered as a single case of serial crimes and thus constituted crimes against humanity, a category of international crimes that military justice in the DRC is empowered to address.

When Batumike and dozens of men associated with the militia were arrested in June, 2016, the crimes promptly stopped. But it was not certain that the case against Batumike would proceed. Dozens of sexual violence cases had failed in the past against far less powerful defendants because of the absence of adequate forensic evidence. Why would this case be any different?

Medicolegal evidence and the power of a network

In 2011, PHR established its Program on Sexual Violence in Conflict Zones,⁸ a training and advocacy initiative to enhance the capacity of doctors, nurses, psychologists, police officers, lawyers, and judges to collect, document, analyse, preserve, and share forensic evidence of sexual violence to support local prosecutions of these crimes. The initiative also helps to cultivate networks of collaboration among these professionals so they can work together to strengthen accountability for perpetrators and to better support survivors. From the outset, PHR has worked extensively with Congolese partners, including, in particular, clinicians at Panzi General Reference Hospital's sexual violence unit, to design and implement a series of training programmes to enhance forensic medical competencies and increase multi-sectoral collaboration.

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Panel 1: The injuries

Clinicians at Panzi General Reference Hospital examined dozens of girls, ranging in ages from 18 months to 11 years, who were sexually assaulted between March, 2013, and December, 2015, in a manner consistent with the distinct patterns of violence described in the text. The following anogenital findings, adapted from classification of gender-based genitourinary and rectovaginal trauma in girls younger than 5 years,⁵ were documented in this group (two children had an absence of anogenital injuries):

- Type 4: Cutaneous and muscular injury with bladder and anal sphincter damage causing faecal and urinary incontinence
- Type 3: Cutaneous, muscular, and anal sphincter damage with faecal incontinence
- Type 2: Cutaneous and muscular damage of the perineum without causing faecal or urinary incontinence
- Type 1: Bruising and abrasions, without any muscle or sphincter damage

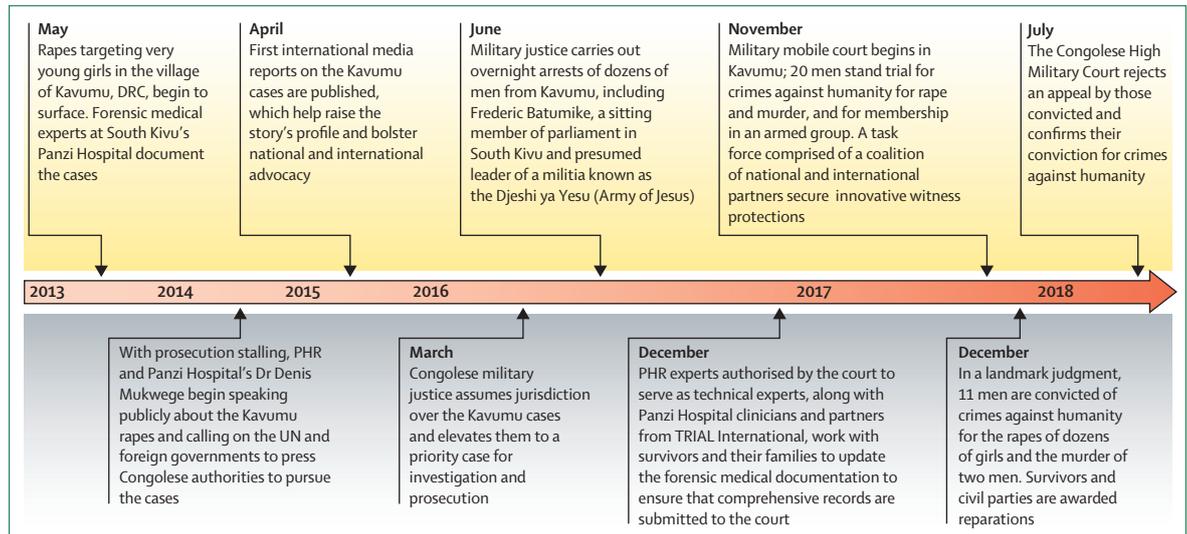


Figure: Timeline of the Kavumu case
DRC=Democratic Republic of the Congo. PHR=Physicians for Human Rights.

The trainings were instrumental in helping Panzi General Reference Hospital clinicians document the physical and behavioural findings from the Kavumu survivors. They used a standardised forensic medical intake form, which had been custom-designed by the Congolese multisectoral network of professionals with PHR stewardship. The clinicians also took forensic photographs of injuries and shared their findings with their police counterparts handling the investigation.

In 2014, PHR mobilised a task force of key stakeholders, including Panzi clinicians and lawyers, police officers, community activists from Kavumu, local non-governmental organisations, MONUSCO (the UN peace-keeping mission in DRC), and, later, TRIAL International, a Geneva-based organisation that pursues accountability for international crimes. The task force met monthly to strategise on advancing the investigation, protecting the safety and security of survivors and families, and to discuss advocacy. PHR also facilitated medical and police expert consultations to reinforce the forensic evaluations and police investigation. TRIAL International provided valuable legal support.

In December, 2016, PHR, TRIAL International, and Panzi General Reference Hospital collaborated to organise a multidisciplinary consultation with 36 of the known 42 Kavumu survivors. Over the course of 6 days, each survivor was seen first by an expert paediatric psychologist, then by a team of physicians authorised in advance by the court (figure).

The aim was to collect video interviews of each of the child survivors speaking about the assault, and to do a thorough forensic medical examination. Strict procedures were put in place to ensure that international protocols were followed and that the children were not retraumatised. The team obtained informed consent

at every stage of the process, including for forensic photography and a medicolegal report that could be used in court.

Legal innovations to avoid retraumatisation of survivors

After a highly complex administrative process, Batumike's immunity was lifted and the case went to trial in Kavumu, DRC, in November, 2017.

Over the course of the trial, it emerged that the perpetrators targeted young girls to obtain their virginal, hymenal blood as part of a religious belief that such blood would shield the armed men from future injury in their conflict with state forces.⁹ This type of ritualistic child sexual abuse is described as "a particularly significant social problem" in sub-Saharan Africa, but the exact prevalence of the practice in the region, or in the DRC specifically, is not known.⁹⁻¹¹

The militia members thus deliberately abducted the girls, some as young as 18 months, to ensure both the virginity of the victim and their limited ability to communicate the identity of the perpetrators.

At all stages of the trial, measures were taken to ensure that the child survivors would be spared further trauma. Guided by special measures available for child witnesses in sexual assault cases in both common law and civil law systems, the judges allowed the pre-recorded video interviews to serve in lieu of the children's appearance in court. At the request of the task force, the judges took innovative steps to ensure the security of survivors and witnesses by permitting adult witnesses (family members) to not testify in public sessions and, when they did testify, to do so fully veiled, behind screen walls, and using pseudonyms and voice modification devices to protect their identities. This was the first time these

survivor-centered protections, taken together, were used in a Congolese court.

On Dec 13, 2017, after more than 3 weeks of trial, Batumike and ten other militia members were convicted of crimes against humanity for rape and murder and sentenced to life imprisonment. This was the first time ever that a sitting lawmaker in the DRC was found guilty for crimes he and his militia committed, and the first conviction in the DRC for sexual violence as a crime against humanity for serial assaults that took place over several years. The defendants immediately appealed, but on July 27, 2018, the High Military Court upheld the trial judgment in full.

The role of clinicians and medicolegal evidence

A unique aspect of the Kavumu case is that, according to the trial judgment, the medicolegal evidence was helpful to corroborate witness testimony and to provide key physical and psychological data about the survivors without compelling them to testify in court.¹

The case exemplifies the important role clinicians can have in addressing and prosecuting sexual violence. Clinicians are generally trained to manage the medical manifestations of sexual violence, but might not capture important forensic evidence in the crucial first few hours or days after an assault. Clinicians can have a pivotal role in supporting investigations and prosecutions and have a responsibility to develop these skills; hospital, government, and educational institutions must also support and provide ongoing training and mentoring to facilitate forensic skill building and collaboration across medical, law enforcement, and legal sectors. It is equally important for the global health community to recognise this potential role for clinicians and to support this crucial effort through technical and financial investment in training, disseminating tools of standard practices, and supporting quality assurance and quality improvement processes to ensure sustainability.^{12–16}

Capacity development interventions require a longitudinal strategy before meaningful effects can be measured. It can take years for medical and legal professionals to develop technical capacity and skills, to cultivate collaborative networks, and to build trust among peers to support justice processes. Progress in some countries has been hindered by the false belief that only forensic medicine specialists are capable of producing high-quality medicolegal reports.

Our experience has shown that this notion is wrong. Especially in conflict-affected countries, capacity for forensic documentation is very limited or non-existent, with the result that little or no evidence is collected of the crimes committed. It is therefore crucial that any clinician, from a nurse to a surgeon, be trained in the basics of forensic documentation and in the use of international assessment and reporting protocols.^{12,16}

Panzi General Reference Hospital clinicians completed extensive training that allowed them to produce

Panel 2: Engaging clinicians to secure justice

- Any clinician, of any specialty and discipline, can be trained and mentored in aspects of forensic data collection and documentation
- Training should cover ethics, history-taking, examination techniques, evidence collection, documentation, forensic photography, and safe storage of documentation, photography, and other evidence
- Use or develop standardised forms in paper or digital formats
- Use international protocols, such as the WHO's Strengthening the Medico-Legal Response to Sexual Violence Toolkit (2015), the UK's International Protocol on the Documentation and Investigation of Sexual Violence in Conflict (second edition, 2017), and the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (commonly known as the Istanbul Protocol, 1999)
- Focus on special measures available to support vulnerable populations, including children
- Review local laws, legal language, and law enforcement requirements to understand how medical evidence can be deployed in local legal processes
- Create an ongoing dialogue and sustainable networks among clinicians, law enforcement, and legal stakeholders

high-quality documentation and medicolegal reports that were held up in court. But clinicians alone cannot bring about the changes necessary to improve medicolegal responses. To ensure the efficacy and sustainability of such efforts, training of police officers, lawyers, and judges and ongoing support for multisectoral networks are also essential. Furthermore, local capacity should be developed to expand training to professionals in other parts of the country and in less-resourced settings.

Conclusions for clinicians and the global health community

The Kavumu story is far from over. The survivors and their families will require years of psychosocial treatment and support, and many girls might suffer long-term physical consequences. A substantial amount of work lies ahead to enforce the reparations awarded, which is notoriously difficult in the DRC.

The Kavumu case offers only one example of success and the case benefited from the technical and financial support of several national and international stakeholders and international media attention, which is not available for most cases.

Nevertheless, the innovations of the Kavumu case offer a rare moment of recognition for the Congolese justice system. The historic judgment should embolden ongoing efforts toward systemic reform, efforts that will ensure the positive outcome is not an isolated one. These results

and this multisectoral model of capacity development and practice can and should be replicated in other communities and countries battling pervasive sexual violence. Although much more work remains to be done, the landmark judgment not only marks a moment of profound relief for the community that endured a long campaign of terror, it also shows a concrete way forward toward pursuing justice for some of the most vulnerable populations around the world (panel 2).

Contributors

KN conceived this Viewpoint and wrote the first draft. All authors contributed to writing the manuscript, commenting on drafts, and approved the final version.

Declaration of interests

We declare no competing interests.

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