



## Special Collaboration

## UQAM International Human Rights Clinic



From January to May, 2017, three students from the University of Quebec in Montreal (UQAM) participating in the [UQAM International Human Rights Clinic \(CIDDHU\)](#) developed a guide on access to justice and reparation for women survivors of sexual violence in the Democratic Republic of Congo. Produced in partnership with the Conjugal Slavery in War research group based at York University, this advocacy paper aims primarily at providing the lawyers working with the Congolese organization [Solidarité Féminine pour la Paix et le Développement Intégral \(SOFEPADI\)](#) with a tool setting out the highest standards in terms of access to justice and reparation for survivors of sexual violence crimes, as guaranteed by international human rights law. The students talk here about their project and its impacts.

### Background and mandate

In the Democratic Republic of Congo (DRC), women face daily sexual and reproductive violence crimes, which take various forms, including sexual assaults, sexual slavery, forced marriage or forced pregnancy. This happens in a context of internal armed conflict affecting several regions in the country. Many survivors of such crimes are faced with the critical challenge of obtaining effective access to mechanisms for repairing the harm suffered. In addition to economic, social, cultural, geographic and emotional barriers that prevent them from accessing courts, the DRC judicial system requires the payment of court fees called “proportional fees” to initiate the procedure for enforcing judgments, thus creating a significant financial barrier for survivors who seek justice and reparation.

Faced with these issues, SOFEPADI and the Conjugal Slavery in War research group entrusted us with a mandate of developing legal arguments based on international human rights law to support SOFEPADI lawyers in conducting local, provincial and national level advocacy to promote the right of women survivors of sexual and reproductive violence to seek and obtain appropriate redress for the violations suffered.

### About the guide

The guide we have developed has three chapters. The first chapter outlines the types of violations suffered by the survivors. Our work was based on over thirty testimonies collected from women survivors by the SOFEPADI/CSiW team in the provinces of North Kivu and Ituri. Furthermore, this chapter set out the

impacts of violations on the lives of the survivors as identified by them, as well as their expectations towards the Congolese state in terms of addressing these impacts.



From the left: *Maya Gold-Gosselin, Maryse Décarie-Daigneault, and Laurence Richard*

The second chapter of the guide outlines the sources of international law that provide a basis for the survivors' right to reparation. This section identifies a broad range of existing reparation mechanisms that meet the highest standards under international human rights law. The mechanisms discussed here are divided into two types, i.e. “judicial”<sup>1</sup> (criminal penalties, civil compensations and administrative programs) and “extrajudicial”<sup>2</sup> mechanisms (medical and socio-economic reparations, guarantees of non-repetition and satisfaction measures). We made sure to put forth examples of reparation mechanisms that follow a gender-based approach, i.e. that are appropriate to tackling the specific impacts of sexual violence and consider the needs and experiences of survivors, as well as the legal, administrative, cultural, social and economic barriers they may face.

The third chapter presents legal arguments for abolishing the proportional fees required to apply for enforcement of judgments. The position seeks to demonstrate that such court fees violates the Democratic Republic of Congo's international obligations regarding the right to justice and reparation for victims of gross human rights violations. Its objective is to

<sup>1</sup> Understood as mechanisms regulated by legislation.

<sup>2</sup> Understood as mechanisms extending beyond legislation.



provide SOFEPADI lawyers with a tool to help them challenge the legality of such fees before national courts and to pressure the Congolese state to abolish or to suspend them for women survivors of sexual violence.

## Lessons learned and challenges

Writing the guide, analyzing the survivors' testimonies and carrying out the legal research enabled us to get hands-on training very early in our academic career. This exercise gave us the opportunity to apply theory learned in the classroom to concrete human rights defence cases. Through this experience, we have developed in-depth knowledge of regional and international human rights protection systems. We are particularly proud and grateful to have been able to gain a better understanding of cultural issues human rights defenders may face while doing their work. The amazing human, educational experience lived through clinical training is invaluable for both our professional and personal development.

Needless to say, we did, however, face particular barriers when developing the guide. For instance, the geographic distance separating our Montreal-based team and SOFEPADI's team of lawyers, based in Kinshasa, created communication difficulties throughout the work, due not only to challenges accessing a stable Internet connection for lawyers working in Democratic Republic of Congo, but also because of the time difference. This communication difficulty made it more complicated to obtain hard-to-find information, such as the scope of application of "proportional fees" by Congolese courts, for example. However, being able to collaborate with Congolese lawyers certainly brought many advantages, such as being made aware of a cultural approach to law that is different from our own and very enriching.

## On-the-ground challenges: There is still some way to go

It is clear that efforts to end impunity for sexual and reproductive violence crimes are only beginning and that survivors face challenges that go beyond the courtroom. Indeed, as long as women who have been victims of sexual violence continue to be stigmatized, ostracized and blamed for what they have gone through, their healing will remain unattainable. To bring about concrete and lasting change and to overcome and transform socially entrenched gender stereotypes, social transformation strategies must be implemented at all levels. It is because of such stereotypes and biases that violent crimes are committed against women with devastating consequences. This is why women's role and autonomy in society needs to be rethought, as well as the value attached to women's purity and virginity.

## Our team



### The students

*Moussa Kamara*, M.A. student in International Law

*Joanie Tremblay Flamand*, B.A. Student in International Relations and International Law

*Laurence Richard*, B.A. Student in International Relations and International Law

### Supervising lawyers

*Ms. Maryse Décarie-Daigneault* has been a member of the Quebec Bar since 2014. She holds a B.A. in Law and a B.A. in International Relations and International Law from the University of Quebec in Montreal. She is currently completing a master's degree in Law at McGill University, after working as a Research Counsel with the Quebec Court of Appeal. Her research work focuses on State violence in Latin America and on issues linked to transitional justice in that region, more specifically in the context of the Mexican "drug war". With a passion for sociological issues concerning impunity and criminal justice, she is studying the relationships between memory, truth and justice in the Americas. She has also gained expertise in sexual and reproductive rights, including through an internship with Mexican indigenous women fighting for equal rights to sexual and reproductive health. She is also engaged in defending the rights of refugees with Action Réfugiés Montréal and in defending women's rights with the Association of Progressive Jurists.

*Ms. Maya Gold-Gosselin* holds a B.A. in Law and a B.A. in International Relations and International Law, as well as a B.A. in Law from the University of Quebec in Montreal. She has been a member of the Quebec Bar since 2015 and has worked as a Research Counsel with the Quebec Court of Appeal bench for two and a half years. She is currently pursuing a master's degree in Law at Laval University. Furthermore, Ms. Gold-Gosselin has gained experience in international criminal law, in women's rights and in children's rights through professional internships, respectively, with the Chamber III of the International Criminal Tribunal for the Former Yugoslavia, the Legal Aid Centre of the Association des femmes juristes du Bénin, and with the President of the Court of First Instance in Cotonou (Benin).