

CHAPTER ONE: POLITICAL TRANSITIONS AND ELECTORAL VIOLENCE IN KENYA

1.1 INTRODUCTION

Kenya attained political independence from colonial administration in 1963. Up until 1991, the country was governed under a one party system that stifled pluralistic politics and competition. With the introduction of multipartism that year, Kenya held its first multiparty elections in 1992, and subsequently in 1997, 2002 and 2007. Although the dominant reign of the independence party, KANU was vanquished at the 2002 polls, it is the 2007 elections that posed the greatest challenge in the maintenance of law and order in the country.

The 2007 Presidential elections results were violently disputed. Indeed with Kenya's opposition party leaders and the incumbent administration failing for months to agree on which of them exactly won the elections, but fanning ethnic hate and despondency, Kenya declined into an abyss of chaos and destruction. International mediation in the form of the African Union facilitated Kenya National Dialogue and Reconciliation Committee that helped resolve the problem but this was only after months of painful death, loss to property and the internal displacements of thousands of residents across the country.

The breakdown of key governance institutions especially the Electoral Commission of Kenya, the Police and even the Judiciary have been blamed for playing part in the political gridlock. However, perceived historical injustices around land redistribution in the independent Kenya was remarkably isolated as a principal reason for discontent especially in the Rift Valley which suffered the highest brunt of the violence.

The interpenetration of historical discontent with land redistribution in the province originates from the early stages of state formation in Kenya. Although the independent Kenya inherited laws and policies from the colonial administration that alienated fertile lands from the natives to the favour of the white settlers, it did little to correct the imbalances than entrench perceptions that favoured social groups were settled in the former white settlements, after independence, without the consideration of the previous land owners. The National Land Policy has pointed out the inadequacies of land distribution in Kenya and generally recommended the need for appraisal and corrective measures to address them. The Njonjo Commission on Inquiry into Kenya's Land Issues formed in 2001 made recommendations to improve land administration and management which were ignored by the government at the time. The Ndung'u commission on irregularly and illegally acquired Land appointed in 2003 also made further recommendations on Kenya's land problems including the issue of resettlement of the internally displaced people and the landless. Nevertheless, the recommendations have largely not been implemented but remains at the core of addressing the Land question in Kenya.¹

¹ Land Ownership and use in Kenya, Chapter 8- Policy prescriptions from an inequality perspective –Paul Maurice Syagga

The wide scale violence that characterized the aftermath of the December 2007 Presidential elections was alarming in its ferocity and scale, but was by no means a peculiar phenomenon with regards to electoral environment in the country. Past elections in Kenya since independence have been characterized by varying degrees of electoral violence² ostensibly on issues revolving around land problems and ethnicity. As such, the situation of internally displaced persons is not a new phenomenon in Kenya either and has been an escalating issue with each successive general election since 1992. The number of internally displaced persons (IDPs) in Kenya reached 431,153³ in 2006. The post election violence in 2007, however, served to compound an already bleak situation on internal displacement and dramatically increased the number of internally displaced persons in the country with the United Nation estimates putting the increase in internally displaced persons at over 250,000.⁴

Within a month of the conclusion of the 2007 general elections, the death toll in the skirmishes was unprecedented with over 1,000 Kenyans killed⁵ and a senseless economic loss reported in almost the entire country. Women and children bore the brunt of the violence in their homes and while fleeing violence prone areas to seek refuge in informal camps set up in schools, police stations and public stadia. Even in camps, women and children were never sheltered away from the violence. Mounting pressure from the local Civil Society accelerated the peace and reconciliation process in the country, brokered under the mediation led by a panel of Eminent Africans headed by former United Nation's secretary general, Kofi Annan. The violence was largely ended at the end of February 2008 through the National Accord and Reconciliation Act 2008, which outlined a power-sharing deal between the opposition and the Government through a grand coalition.

On the passing of the National Accord and Reconciliation Act 2008, the Government established a Commission on Inquiry on Post-Election Violence (CIPEV) and launched a massive resettlement exercise known as "Operation Rudi Nyumbani" intended to resettle the Internally Displaced Persons. The resettlement plan drew wide criticism from non state actors particularly because the exercise was not guided by any strategic framework. Instead, it was largely forceful, haphazard and clearly orchestrated by the Government in order to enforce a return to normalcy in the affected areas. Paltry compensations were given out to the resettled IDPs to restart their lives. By the end of June 2008, the government stated that it had spent Kshs.2.3 billion in resettlement assistance to the IDPs. The resettlement package for the IDPs consisted of Kshs. 10,000 (US\$ 166), some blankets and food rations for a month. Eventually, the government indicated that its support would emphasize a shift from provision of food aid to the provision of farm inputs so as to facilitate IDPs to restart their livelihoods without fostering dependency.

² Who is Guilty?-Youth perspective on the 2007 pre-polls Electoral violence in Kenya

³ UNOCHA , Internal Report ,May 2006,p.1

⁴ 6th January 2008 –United Nations News Centre

⁵ NAIROBI (Reuters)- Tue Feb 5

The analysis of the resettlement exercise reveals serious shortcomings on the part of the government in dealing with this situation. By permitting the violence and allowing the displacements to occur, it has in the first instance failed to protect the fundamental human rights safeguarded in the Constitution such as the right to life, liberty, security and protection under the Law among others. International human rights instruments to which Kenya is a signatory such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW-OP), Declaration on the Protection of Women and Children in Emergency and Armed Conflict, Declaration on the Elimination of Violence against Women and the Great Lakes Pact on Peace Security and Development (together with the protocols there under) were clearly abrogated by the events of the post election violence that necessitated women and children to live in the IDP camps. Indeed, internationally accepted standards and procedures for dealing with Internally Displaced Persons were not respected by the Government in the situation of handling IDPs in the country but observed in breach.

1.2 WOMEN AND DISPLACEMENTS; GLOBAL AND REGIONAL EXPERIENCE

Violence against women is one of the negative social mechanisms through which women are forced into a subordinate position compared with men. Women and children belonging to the civilian population who find themselves in circumstances of emergency and conflicts are often deprived of shelter, food, medical aid or other inalienable rights against the dictates of the provisions of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and other human rights instruments. Yet whether they live as internally displaced persons in IDP camps within the country's borders or as international refugees; whether these violations are occurring in public or in private life, they result in the aggravated suffering of women and children in gross and arbitrary desecration of their rights. The physical, sexual and psychological violence perpetrated against women and children in this state constitute serious abdication on the part of the state from its traditional role to protect and promote those rights and freedoms.

In conflict situations, women and girls face a greatly increased risk of physical and sexual violence. Many women and girls are subjected to rape including gang rape, forced marriages with enemy soldiers, sexual slavery, and other forms of violence (being forced to witness others being raped, mutilations, etc.). Many have fled their homes, lost their families and livelihoods, and may have little or no access to health care.

Violence against women and girls has been a feature of all recent conflicts, including the ongoing conflicts in the Darfur region, Sudan as well as in the former Yugoslavia, Democratic Republic of Congo, Rwanda, Jordan, Palestine, Sierra Leone, Liberia, northern Uganda, and Chechnya. In many of these conflict areas, rape has been and is used as a deliberate strategy to brutalize and humiliate women and as a weapon of war or political power.⁶

Sudan, Africa's largest nation, has been ravaged by civil war and famine for nearly three decades. In this state of unrest, many people have become internally displaced in Sudan. Diseases such as malaria, gastrointestinal diseases, tuberculosis, snail fever, sleeping sickness and AIDS prevail in the IDP camps. Most of the internally displaced residents in the Darfur region of Sudan were forced out of their homes into IDPs Camps. The camps are refugee camps for individuals and families who have been forced out from their communities but remain within the borders of Sudan.

Approximately 2.5 million Sudanese citizens live in the IDPs Camps and roughly three-quarters of the inhabitants are women and children. Women and children are at a higher risk for contracting the HIV/AIDS virus during or after displacement due to poverty, disruption of social structure, lack of medical services, increased risk of sexual violence and increased socio-economic vulnerability when they engage in sexual practices in the camps or become sexually assaulted. The disruption of typical family and community structures along with social norms which govern sexual behaviour and normal relationships leads to youths becoming sexually active at an early age. The emergence of a sex industry amongst the displaced and the local populations has also been noted on the part of residents of IDPs Camps.

There is plenty of evidence that women and girls are often subjected to sexual and other types of GBV in refugee camps, sometimes by security personnel, camp officials, or aid workers. Young, unaccompanied females are among the most vulnerable, as well as women from minority ethnic groups. In Somalia, for instance, rape and sexual abuse in IDP camps is common, with women and children, most at risk. Somali women and girls living in refugee camps in Kenya have also been the target of rape and sexual attack by other Somalis, Kenyan police, and soldiers.

The IDPs Camp programs enables humanitarian assistance workers to better understand the problems faced by IDPs as well as the increasing gender based violence. Women and youths faced with these challenges can then educate other residents in the camps, greatly helping to stop the phenomenon if tackled in time from a broad collection of stakeholders. The issue of gender based violence in the camps needs urgent resolution within the broader framework of humanitarian assistance and dealing with the political and economic problems that cause the refugee problem.

⁶ Violence against women and HIV and AIDS: Sexual violence in conflict settings and the risk of HIV

1.3 THE PROBLEM OF GENDER BASED VIOLENCE AND POPULATION DISPLACEMENTS IN KENYA

Sexual violence is increasingly prevalent in Kenya and is a grave affront to human rights and dignity. The alarming proportions of sexual and gender based violence are confirmed by statistics that indicate its prevalence throughout the years. Kenya Police statistics show that more than 2,800 cases of rape were reported in 2004, an increase of about 500 cases compared to the previous year.⁷

However, the wide scale violence which followed the December 2007 Presidential elections brought new dimensions to the problem of sexual and gender based violence particularly in the areas affected by the conflicts such as Nairobi, Naivasha, Nakuru, Burnt forest, Eldoret and Kisumu where media reports and survivor accounts pointed to high incidences of sexual violence. The Kenya Police Crime Report data for 2007 indicated that there were 876 cases of rape reported, 1,984 cases of defilement, 181 cases of incest, 198 cases of sodomy, 191 cases of indecent assault and 173 cases of abduction reported in the year.

An increase in sexual and gender based violence was also noted from statistics by the Nairobi Women Hospital Gender Recovery Centre, Kenya's pioneer health institution which specializes in women's health issues. Reported cases of sexual and gender based violence between the years 2003 to 2005 showed an increase from 747 to 1485 cases. The outbreak of violence during the post election period compounded the already bleak status of gender based violence. It witnessed an increase in sexual violence cases and complications for countrywide response to the problem. Service-delivery statistics from the Nairobi Women's Hospital and the Coast General Hospital gave some indication of the scope of the problem; both hospitals reported an upsurge in the numbers of women and children seeking treatment for rape since late December 2007⁸. During the period between 27th December 2007 to 29th February 2008, the Nairobi Women's Hospital's Gender Violence Recovery Centre (GVRC) alone treated a total of 443 survivors of Sexual and Gender based violence of which 80% were rape/defilement cases, 9% were physical assault cases, 7% were domestic violence cases and 4% were indecent assault.⁹ The hospital noted that altogether they attended to 653 cases of GBV related to the crisis¹⁰.

⁷ Kenya Police.go.ke (citation)

⁸ GBV Sub cluster -Frequently asked questions fact sheet, December 2007 - February 2008.

⁹ Interim report for post election violence –Nairobi Women's Hospital –Gender Violence Recovery Centre.

¹⁰ Dr. Sam Thenya – during hearings at the Justice Waki Commission of Inquiry into the Post Election Violence (CIPEV), 15/7/08; also see EA Standard, March 13, 2008

In other health centres located in regions affected by post-election violence, such as the Kitale District Hospital, Nakuru Provincial Hospital, and the Moi Teaching and Referral Hospital in Eldoret, the numbers of women and girls seeking medical care for sexual assault declined in the two months following the outbreak of violence. Health care providers attributed this decrease to the challenges women and girls faced in accessing services during flight and in the circumstances of displacement. Notably, the use of all services at the hospitals had decreased since the elections, and up to 25 % of health centres were temporarily closed due to staff shortfalls during the height of the crisis.¹¹

Earlier research¹² revealed survivor's accounts of serious gaps in provision of essential services such as security, psycho-social support and expedient access to health services. In addition, CREAM gathered information that captures the high levels of ignorance among women in the conflict areas with regard to human rights and the law. This is characterized by incidences that show women who alleged sexual exploitation while in the camps were not aware that this was a criminal offence and or of how they could seek redress for the same. The information gathered also highlights allegations of Police officers participation and or complicity in sexual harassments in IDP camps as part of the problem.

Victims of rape often face insurmountable obstacles in trying to bring the perpetrators to justice. Many women who have suffered rape or other forms of abuse are too intimidated by cultural attitudes and state inaction to seek redress. To do so can lead to hostility from family, the community and the police, with little hope of success. Those who do seek justice are confronted by a system that ignores, denies and even condones violence against women, and protects perpetrators, whether they are state officials or private individuals. In conflict situations especially, it is difficult to see high levels of cases reported particularly where there are no mechanisms to provide confidentiality and expedient legal redress and psycho-social support.

The international human rights standards, which prohibit violence against women include several treaties that Kenya has ratified - including the African Charter on Human and Peoples' Rights, the International Covenant on Civil and Political Rights, the Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, and Convention on the Rights of the Child - and under which it therefore has legal obligations. In particular regard to sexual and gender based violence in conflict situations, the Government has signed the Great Lakes Pact on Peace Security and Development together with all protocols emanating from the pact such as the Protocol on the Prevention and suppression of Sexual Violence against women and children but has been slow in domesticating.

¹¹ Inter-agency rapid GBV assessment led by UNFPA and including GBV experts from UNICEF, UNIFEM, and Christian Children's Fund, Jan - Feb 2008

¹² Interim report for post election violence –Nairobi Women's Hospital –Gender Violence Recovery Centre and Inter-agency rapid GBV assessment led by UNFPA and including GBV experts from UNICEF, UNIFEM, and Christian Children's Fund, Jan-Feb 2008

This has resulted in a weak legal infrastructure that is incapable of wholesomely addressing the problem of sexual and gender based violence whether in peaceful or volatile circumstances within the country. Existing legal provisions such as Chapter V of the Kenyan Constitution which provides for Protection of Fundamental Rights and Freedoms of the individual inter alia guarantee the right to life liberty and security of person and also prohibits torture, inhuman or degrading treatment. The Sexual Offences Act (2006) also plays a significant role in the attempts to address sexual and gender based violence although lack of awareness of human rights and the law (particularly high levels of unawareness on provisions of the Sexual Offences Act 2006 persists in the communities and even the amongst some Judicial Officials and Police Officers) has undermined the progress in breaking the impunity related to gender based violence.

The legal lacunae is further enhanced by inaction on Parliament's part to fast track the promulgation into law of pending Bills like the HIV/AIDS Bill and the Family Protection (Domestic violence) Bill which would strengthen the fight against sexual and gender based violence in Kenya.

1.4 INTERNAL POPULATION DISPLACEMENT FOLLOWING THE 2007 ELECTIONS

According to the UN Office of the High Commissioner for Human Rights (OHCHR) , following its February fact-finding mission to Kenya, the violence that occurred in the aftermath of the post 2007 Presidential elections in the country followed three patterns: spontaneous burning and looting in protest at electoral irregularities and cumulated frustrations; violence targeting perceived pro-government communities which appeared partially organized by local political and traditional leaders in the Rift Valley; and retaliatory reprisals targeting perceived opposition supporters in Nakuru, Naivasha and Nairobi slums. In all the patterns, the state appeared to clearly have failed to meet its obligations to protect the citizen's right to life liberty and security of person.

Camp numbers fluctuated but drastically dropped after June with the government's insistence to shut them down. Until then, it was a mixed picture with some camps reporting population increases while others dropped. Some IDPs went home but many were being hosted in the local community.

National Distribution of IDPs and IDP Camps in Kenya

	14 th April 2008		21 st April 2008	
REGION	NO. OF CAMPS	NO. OF IDPs	NO. OF CAMPS	NO. OF IDPs
North Rift Valley	52	80,659	41	77,588
South Rift Valley	62	51,105	79	49,575
Nyanza	15	4,186	15	4,294
Western	16	14,697	16	14,648
Central	32	5,000	9	1,958
Nairobi	5	1,938	6	2,608
TOTAL	182	157,585	166	150,671

(Source: Kenya Red Cross Society)

Even as a significant number of people returned home, others were predicted to drift into Urban slums, where their problems would only be compounded by new challenges. The Kenya Red Cross Society predicts that resettlement for most of the internally displaced persons may not be possible until 2009.

Camp populations increased in areas like Nakuru as IDPs left host families and sought support in or through the camps. Rumours of compensation discouraged people from moving out of the camps, putting pressure on service provision although the Government appeared determined to close down the IDP camps by end of September 2008. However, according to the Ministry of Special Programmes, as of June 31 2008, the government had spent Kshs. 2.3 billion (or US\$ 36.5 million) on IDP assistance in the resettlement plan. It is the Kenya Red Cross Society (KRCS) that mostly supplied food and Non Food Items (NFI) to the IDP camps even though for a long time, these were inadequate because of the growing number of people. Some of the camps had higher access to essential services such as electricity supply.

The humanitarian community worked closely with local authorities and KRCS to assess potential areas of return and relocation of IDPs and to develop future assistance plans. Shelter and protection were key issues for the agencies. IDPs resettlement package included food rations, reconstruction materials for those whose houses were burnt down, farm equipment, fertilizers, seeds and transportation. By June 2008, some resettlements began.

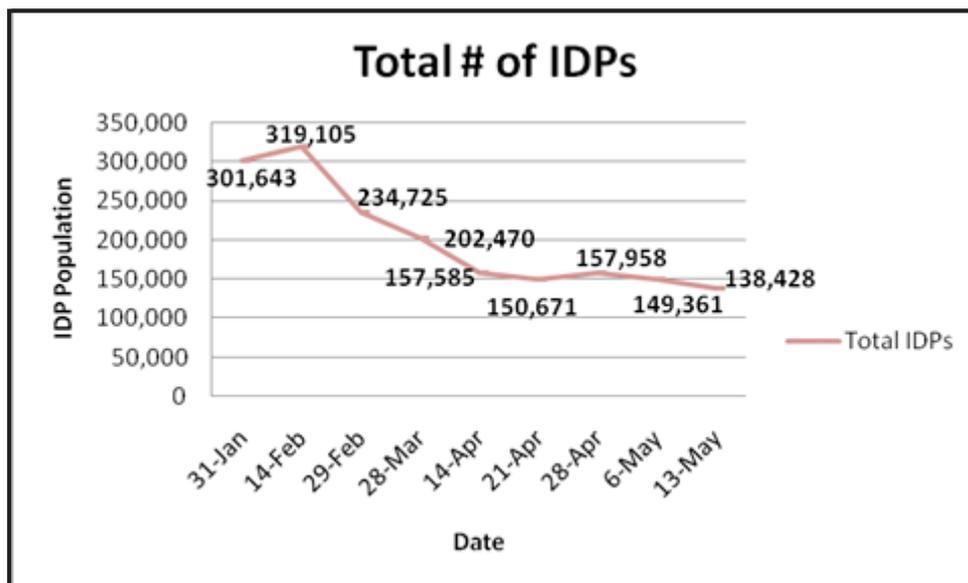
Poor shelter, sanitation and hygiene were serious problems in the IDP camps. Tents, Tarpaulin and ground sheets were distributed for IDP camps in Nakuru, Kisumu, Kisii, Timboroa, Makutano, Naivasha Stadium, Kedong and Nakuru camps among other places. In Eldoret Agricultural Society

of Kenya (ASK) Showground, KRCS, IOM and Oxfam installed drainage channels for temporary shelters. Several camps were overcrowded such as the Nakuru ASK Show ground and the Eldoret show ground camp. The Nakuru ASK showground camp had 15,000 IDPs while the Eldoret camp even had more (Kenya Humanitarian update, Vol 19, 4). Other humanitarian agencies in the IDP campaigns included MSF-Belgium, GTZ, German Agro Action and UNICEF. The agencies distributed blankets, energy saving stoves, Aqua tabs, sanitary towels, charcoal, sleeping mats, toys and tools to upgrade camps to IDPs camps in some of the camps.

UNICEF Focus group meetings with IDPs in Afraha Stadium, Nakuru found that education was the main challenge in the camps. Many students were not placed in schools and others were sent away because they did not have school fees or uniforms. The rains disrupted education in some camps where the tents did not have ground sheets. Many teachers and head teachers reported that significant numbers of children urgently needed support to recover socially and emotionally from their recent experiences of post-election violence. Some IDP students in Standard Eight had failed to pay Kenya Certificate of Primary Education (KCPE) fees to be registered as candidates for their exams. Food shortages in the camps as well as constant health risks especially due to overcrowding and weather problems (e.g. rains) were experienced.

Security in most camps was complemented by policemen stationed around the areas to carry out patrols. Nonetheless, insecurity remained a constant fear in most of them. Even education tents were targeted by thieves since no fences were built around the IDP schools. Cases of Sexual and Gender Based Violence at the camps were confirmed in many cases. In response to obvious cases of GBV, the government provided police patrols day and night, and lighting in some camps. Humanitarian groups also distributed Post-Exposure Prophylaxis.

Total Number of IDPs



Source: KRCS in Humanitarian Update VOL 19, May 9-15, 2008, Office of the United Nations Humanitarian Coordinator in Kenya

The findings of a rapid assessment on gender-based violence (GBV) suffered in camps, the UN Population Fund (UNFPA), the UN Children's Fund (UNICEF) and the Christian Children's Fund (CCF), reported that women repeatedly expressed fears of sexual violence because of makeshift sleeping arrangements, where men and women were forced to sleep under one tent or out in the open.¹³

An independent documentary shot by CREAM in some of the IDP camps in March 2008 exposed disturbing testimonies of gang rapes that seemed to have been widespread. Indeed, similar fears were noted by the Nairobi Women's Hospital, which handled incidences of gang rapes in the cases reported to the hospital around the time¹⁴.

¹³ A rapid assessment of Gender Based Violence during the Post election violence in Kenya (January – February 2008)

¹⁴ IRIN News- Kenya- Rape on the Rise in Post Election Violence, 2 Jan 2008

CHAPTER TWO: THE STUDY METHODOLOGY AND PROCESS

2.0 STUDY METHODOLOGY

This study was conducted in five areas with camps of internally displaced persons; namely Nairobi, Naivasha, Nakuru, Burnt Forest and Eldoret. In Nairobi, information was obtained from the Nairobi Women's Hospital which is in the fore front of treating women who have experienced sexual and gender-based violence. Information from the hospital was necessary regarding the trends and nature of violence experienced by women during the post-election period in Kenya. Other data on Nairobi IDPs came from the Jamuhuri show ground Camp, Huruma, Kayole , St Benedict Catholic Church along Thika Road, Kasarani and Waithaka, which have been hosts to some of the IDPs.

The study used a combination of both secondary and primary methods of data collection to achieve a comprehensive quality of the information gathered. Secondary data was collected through literature search of both published and unpublished materials from various institutions. Internet search was also carried out to supplement existing materials.

Primary data was obtained through the questionnaire, case studies, in-depth interviews and FGDs. The investigators purposely selected respondents who participated in the sessions. Two FGDs and five in-depth interviews were conducted for most of the five districts as shown below. The study was conducted over a period of three months between the last week of January 2008 to 25th April 2008.

Summary of the methodology for each site

REGION	FGD (Focus Group Discussions)	Questionnaires	In-depth Interviews	Case Studies
Nairobi	2	20	15	8
Nakuru	2	25	10	2
Eldoret	1	25	10	6
Naivasha	2	25	10	6
Burnt Forest	1	25	10	6

The survey

A survey questionnaire was used to obtain information on a cross-section of issues. Primarily this helped to profile the IDPs – for information on sex, age, level of education, marital status and occupation of the IDPs. The survey also helped to obtain information on the kind of services offered at the IDP camps and information on whether survivors reported their attackers and whether any action followed the reports.

The willingness of survivors to report the attacks voluntarily and what factors motivated them to take the option was also tested. Finally, views from the IDPs on solutions to the attacks in the camps were noted.

In-depth key informant interviews and Focus Group Discussions

In-depth interviews with key informants were used to augment data obtained through the secondary sources and the survey. These interviews covered issues as the services offered at the camps and specific medical services offered to sexual and gender-based violence and exploitation survivors.

It should be noted that the camps had established informal leadership right from community up to the district level. It is from this category that community leaders were selected for key informant and in-depth interviews. Key informants included purposively selected professionals and lay persons who had leadership and professional roles in the running of the camps. The key informants included *inter-alia* camp managers, health care providers, staff from local hospitals and clinics, local administrators and church leaders. Their selection were made through either purposive or ‘snow-ball’ sampling.

Among the service providers interviewed were camp managers, camp supervisors, health care providers, police and other security personnel, humanitarian officials, and counselors. It was important to get information from them because they were in a position of responsibility for the safety and upkeep of the IDPs. At the same time, the IDPs were likely to approach them in case they faced any problems. The identities of the key informants and participants in focus group discussions have been concealed as requested by the interviewees who gave information on the basis of anonymity.

Case studies

Case studies were sought to put human faces on the reported incidences of sexual and gender-based violence. However, they also discussed issues of traditions, values, norms, decision-making patterns and other practices relating to sexual violence and gender-based violence and exploitation. Case studies targeted

the women who had been raped, assaulted or sexually exploited to give insights into how and why women are targets for gender-based violence, rape and sexual exploitation.

Since the study focused on individuals aged 18 years and above, this became the main unit of analysis. However, so as to explore certain parameters of the study in so far as they affect children, those aged below 18 were also interviewed but only under permission of their parents, and if need be, in their parents' presence.

Ethical considerations

Considering the living conditions of the IDPs, this study considered many ethical issues during the process of enquiry that is usually the case for study of this nature. The IDPs are a special category of respondents. Most of them had undergone terrifying moments during evictions and still had physical and mental scars from the unfortunate experiences. As such, the respondents were treated with dignity and respect. This called for extreme care in the course of interviewing and it became important to understand their situation from the point of their own best interests.

As part of research ethical considerations, the principal investigator sought government approval at local and national levels to conduct the study. Further, the information obtained from respondents was treated with confidentiality and therefore, no respondent's views were attributed to the source unless with their express permission. All the respondents participated in the study on a voluntary basis.

Finally, reflecting the status of the commissioning organization as a human rights defender's institution, the researchers were asked to keep the anonymity of their respondents so as to enhance their security. The same principle has been carried into this study for ethical reasons as most of the respondents wished to have their identity concealed.

2.1 OBJECTIVES OF THE STUDY

CREAW undertook this study to examine, understand and document the nature and extent of gender-based and sexual violence experienced by the IDPs following the 2007 post elections violence after the release of disputed presidential election results. The specific objectives were:

1. To understand the main causes and consequences of sexual and gender-based violence during the post election violence.

2. To examine and present the basic trends and patterns of sexual and gender-based violence and exploitation among IDPs living in the camps.
3. To document the experiences of women who have undergone sexual and gender-based violence and their interpretations of the problem.
4. To identify the humanitarian needs and services rendered to the residents in the IDP camps.
5. To suggest appropriate legal and policy interventions for addressing the problem of sexual and gender-based violence against vulnerable women and young girls particularly in conflict situations.

2.2 THE SIGNIFICANCE OF THE STUDY

Although sporadic reports and accounts on sexual violence have been in the public domain, there is a lack of clarity with regard to the fundamental concerns that women faced during this period. It is not clear what the nature and extent of the sexual violence were during the period of the violence or how widespread it was.

For this study, it is also important to highlight accounts from IDP camps on services that were offered within the camps and assess their adequacy in meeting basic needs like psycho-social support, accessing medical facilities, general security and access to humanitarian aid and access to basic facilities such as proper sanitation, food and water.

With the increasing frequency of reports on sexual violence in the IDP camps, it was critical to determine what structures encouraged victims to report the cases and seek necessary assistance. This was essential to bring about an understanding of the factors that contributed to non-reporting of the cases and therefore the challenges that hindered access to justice for the survivors of sexual violence. The CREAW documented voices of women IDPs who viewed reporting their attacks as a lesser priority compared to other immediate concerns such as security, access to food and the well being of their children.

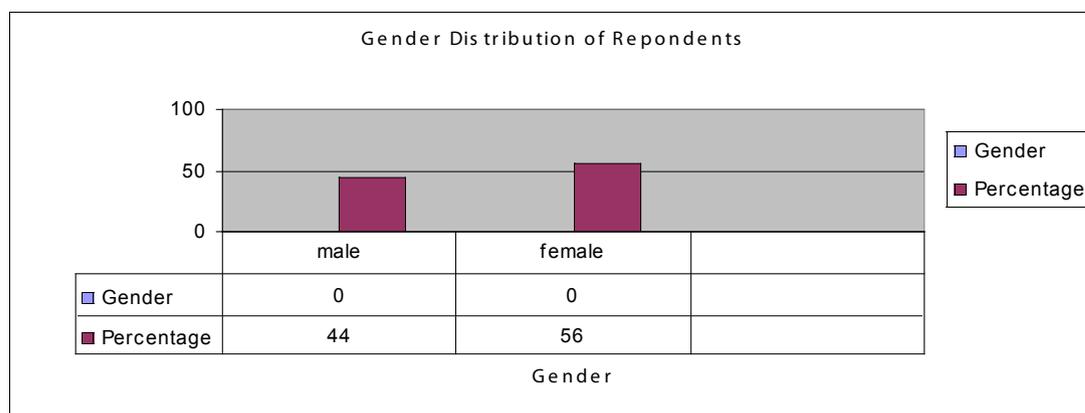
In addition, it was important to determine levels of awareness on post rape care measures and penal legislation that addressed sexual violence particularly the Sexual Offences Act and identify how this affected reporting of sexual violence cases. The study was also critical to determine gaps in the provision of services in the camps and draw up recommendations that would enable drafting of legislation that would ensure a framework to address the plight of IDP'S from a holistic point of view to protect women and children from further sexual and gender based violence particularly in conflict situations.

3.0 STUDY PRESENTATION AND DISCUSSIONS

3.1 The Socio-demographic profile of the respondents

The graph below presents a summary of the socio-economic and demographic details of a cross-section of the respondents who participated in the survey. It was important to get an overview of the respondents' socio-economic and demographic profiles in order to analyze some of the effects of the post-election crisis from the socio-economic and demographic perspective.

Women accounted for the majority of the respondents (56%) compared to the men (44%). Studies have shown that Women are the common targets for sexual violence during armed conflict when rape, sexual slavery and other forms of sexual abuse and assault are used as strategies of warfare.¹⁵



Women are particularly targeted in violence situations to humiliate their communities and as a way of celebrating conquest. Their bodies become a battleground over which opposing forces struggle. Women are raped as a

¹⁵ *From* Review of Reports, Studies and Other Documentation for the Preparatory Committee and the World Conference, Note by the Secretary-General, transmission of Contribution by Special Rapporteur Radhika Coomaraswamy to the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance on the subject of race, gender and violence against women, 120, 121 (A/CONF.189/PC.3/5) (27 July 2001).

way to humiliate the men they are related to, who are often forced to watch the assault¹⁶. Data gathered from media reports highlights of incidences of sexual assaults against women during the post 2007 election conflict suggest that they bore the brunt of the conflicts that emanated from the disputed election results:

The effects of armed conflict on women and girls go beyond sexual and other types of GBV. Women experience distinct economic and social problems as they find it extremely difficult to care and support themselves and their families financially.¹⁷ During conflict situations, the displacement camps offering refuge to IDPs seeking shelter pose a different form of humanitarian challenge to women and girls in terms of sustaining their families related to addressing their reproductive healthcare needs. For women, these needs actually tend to increase during emergencies given their roles and vulnerability to GBV.

According to a manager with the Kenya Red Cross Society at the Naivasha camp:

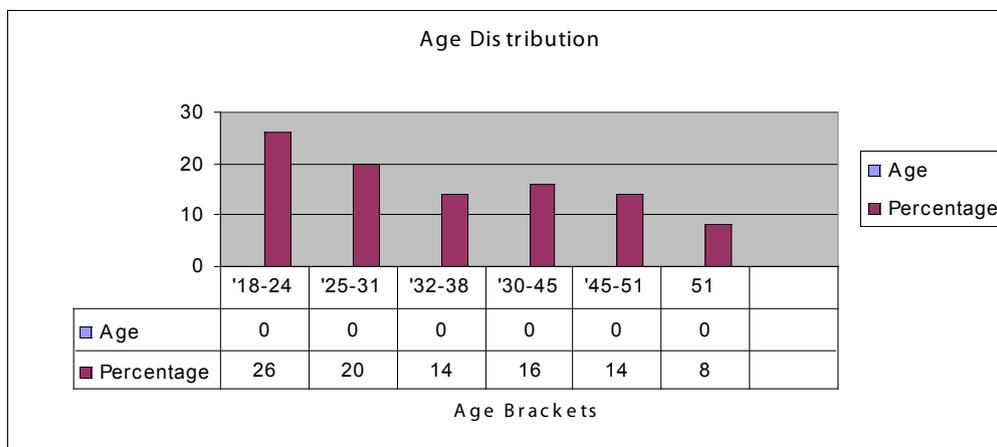
“Women were mostly affected because 90% of them seem to have lost all they had as they could not fight off their attackers and thus were evicted from their homes and raped in the period when violence erupted. They also watched helplessly as their husbands were killed and I have heard some cases where their children were burnt alive as they watched. I would not say that only women and girls were affected, men were also attacked-being the head of security in their homes, they went through physical assault, some came here with arrows lodged in their bodies, panga cuts, cut limbs and needed immediate medical care. We got reports of men who were killed and some women here are now widows”.

A majority of the respondents were between the ages 18 and 24 (26%). This trend is consistent with the demographic character of the country. The youth constitutes a broad component of the population in the country and a majority of members of a family are likely to be the youth. Consequently, it can also be concluded that a lot of young people suffer immensely before, during and after armed conflict, even when this is to say that their population is proportionately higher and more mobile than other segments of the population.¹⁸This also then explains the high levels of young people who sought refuge in the IDP camps.

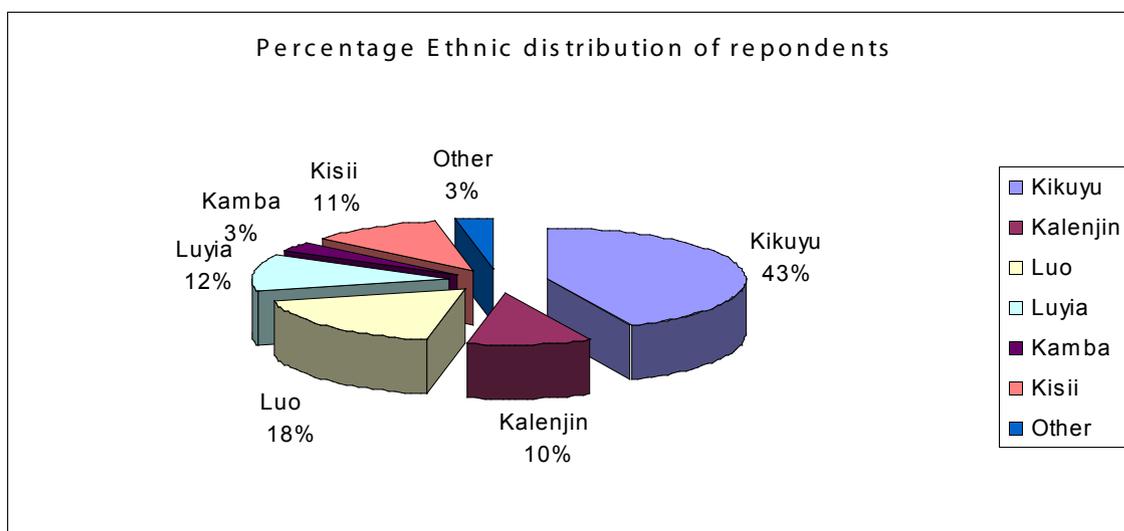
¹⁶ Elisabeth Rehn & Ellen Johnson Sirleaf, *Women, War and Peace: The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace- building* 10 (2002).

¹⁷ FMO Research Guide- Conflict induced Displacement

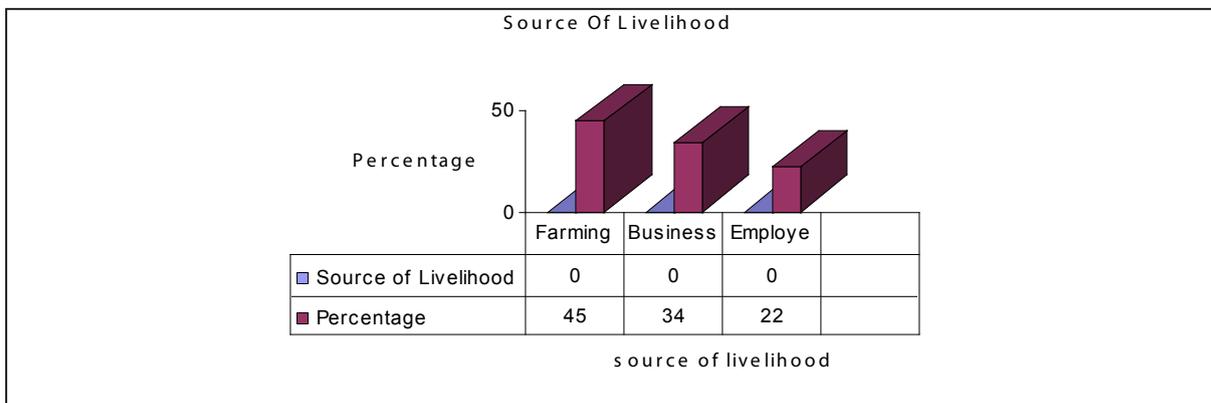
¹⁸ Search for common ground - Resource Guide for Children And Youth



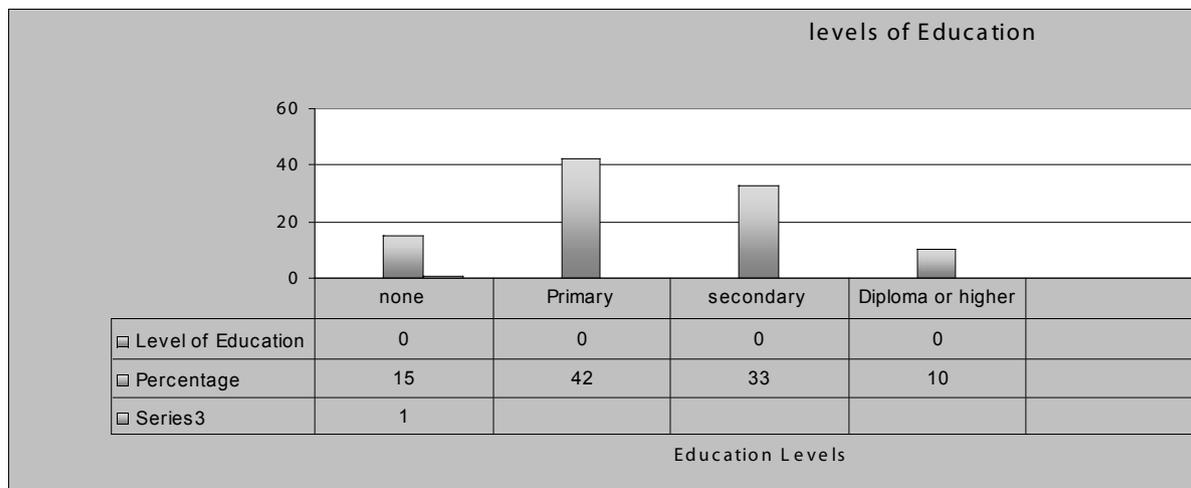
The post election violence took ethnic dimensions which determined the nature of displacements based on ethnicities in the various IDP camps.



Prior to the eruption of the violence, most respondents were either involved in farming, small scale businesses or were employed in various enterprises in the areas where they resided.



The levels of education shown in the graph below imply that the majority of the displaced had low levels of education. This is also consistent with the findings on sources of livelihood. Most IDPs are in the camps because their usual sources livelihoods have been destroyed and therefore they have no alternatives but to seek humanitarian aid to compensate for the same.



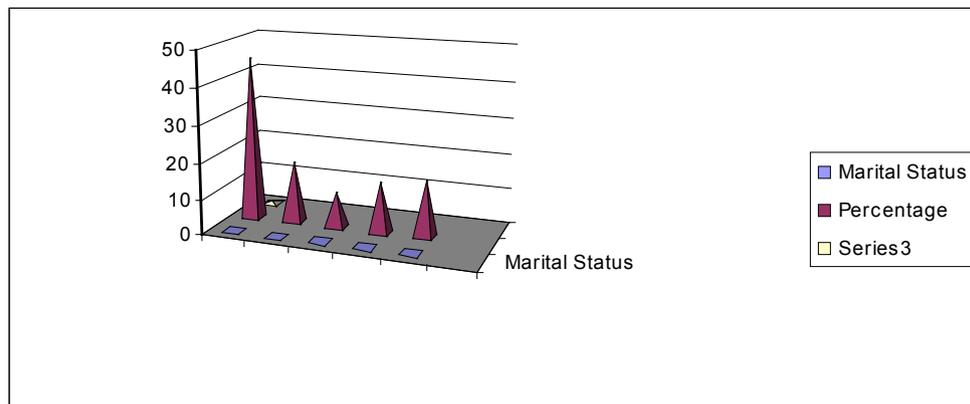
The level of awareness on human rights and sexual offences are relatively low taking into account the low levels of education at the camps visited. As such, it was not uncommon to find that survivors were ignorant of their rights.

The profiling of respondents in terms of marital status was important as a tool to discern the extent to which the post election violence disrupted the basic family unit by determining the prevalence of separations due to the violence. In addition it was important to identify the role which the IDP camps came to play in keeping the family unit together and determine to what extent marital status dictated vulnerability of displaced persons. From the findings of the survey, 45% of the respondents were married while 10% were divorced(17% single,14% separated - both as a result of the violence and or through marital break up - and 16% widowed - both as a result of the violence and or other unrelated various causes of death of spouses).

It was learnt that some of the respondents actually divorced or separated on arriving at the camps. This was most notable at the Naivasha camp. The reasons for dissolution of marriage included rape and infidelity. Others were separated from their families on ethnic grounds. The response below from Burnt Forest illustrates the extent to which ethnicity led to separation between spouses:

“I used to live there with my husband and children where we had our matrimonial home and land. However my husband’s community was frustrated and deeply annoyed with the disputed results and thereupon attacked my home and chased my children and I since we were Kikuyu. My husband was spared but asked to remain since he belonged to the same community and I knew this was the beginning of tribal clashes. I then came to live in this IDP camp to seek refuge and all along I have been staying here till today¹⁹”

The graph below illustrates the different marital status of the respondents in the IDP camps



¹⁹ Anonymous, Burnt Forest

3.2 Patterns, Experiences and Consequences of Gender based violence in affected areas

Socio-Economic Disruption of the Family Unit

Armed conflicts inevitably lead to a decrease in the resources available to many households for basic consumption (Kotlikoff and Spivak 1981; Rosenzweig and Stark 1989). The ability to keep basic household consumption is very dependant on marriage but becomes particularly invariable during conflicts as access to credit markets is also limited. Additionally, as marriage is often considered to be an alliance of household and clan networks (Monaghan and Just 2000), entering a favourable alliance allows a household to predictable consumption using economies of scale in labour and household production (Becker 1973).

The disruption of the marriage due to conflict therefore affects the ability of the household to maintain predictable levels of basic consumption; it exhausts resources available for consumption and disrupt access to already limited credit markets by virtue of wide scale displacements. This is what the high level of violence in areas affected by post election violence caused to the many displaced families. The high percentage of displaced married women (45%) living in the displacements camps was indicative of the socio-economic disruption of the basic family Unit resulting in married couples seeking refuge in the IDP camps.

Psychological torture and Family separations due to the violence

A humanitarian worker and paramedic at the Nakuru showground recalled how some of the women were affected:

“Women were most affected because 90% of them seem to have lost all they had as they could not fight off their attackers and thus were evicted from their homes and raped in the period when violence erupted. They also watched helplessly as their husbands were killed and I have heard some cases where their children were burnt alive as they watched.”

The demographic profile of the displaced respondents indicated that 14% to 16% of the respondents were separated and widowed respectively. Separations were as a result of fleeing the post election violence where their spouses and or other family members went missing while for others, they were separated before the violence broke out. Similarly some of the widowed respondents said that their spouses had been killed in the violence although for others, they were already widowed even before the violence broke out.

Still, the post election violence compounded the situation. As refugees often flee under chaotic circumstances, leaving all or part of their membership behind, children get lost too. Other people may have stayed behind to look after elderly parents or sick relatives; others may have gone into hiding, or killed and buried in a mass grave. Or they may simply be in a different refugee camps unknown to their relatives. When the family unit breaks down, whether from physical separation during flight or pressures placed upon it in the displacement situation, individual members can become more vulnerable²⁰ This is acknowledged in the following response recorded during the study;

“I am a 16 year old Kikuyu girl from Kiambaa. My mother is dead and I am not sure where my father is. I have two sisters; one is married and I am not aware where the other one is. We got separated when they attacked us. When they started burning the houses, we ran off in different

directions. I have been living in this camp for about two and half months now. I had just finished my Form One year in school and was looking forward to joining Form Two this year. I however do not attend the school in the camp. I share a tent with another girl who is 17 years old²¹...”

The interagency GBV Assessment Report²² brought out concerns relating to increased separation of husbands from their wives with some instances where men send their wives and children to other areas for safety and some inter-tribal spouses separated along tribal lines usually leaving the women to care for the children. Case studies conducted under the instant research also captured cases where separation of spouses resulted from tribal tensions

“I used to live there with my husband and children where we had our matrimonial home and our land. However my husband’s community was frustrated and deeply annoyed with the disputed results and thereupon attacked my home chased my children and I since we were kikuyu and my husband spared to remain since he was a the same community like them and I knew these were tribal clashes beginning. Then we came to live in the IDP camp seeking refuge and all along I have been staying there till today²³...”

Studies of the experience of women and girls in other conflict situations suggests that they are often subjected to sexual and other types of GBV in refugee camps, sometimes by security personnel, camp

²⁰ Refugee International Articles-Reducing the impact of armed conflict on families

²¹ Female respondent from the Kiambaa church burnt in Eldoret on 30/12/07

²² A Rapid Assessment of Gender Based violence during the Post Election Violence in Kenya

²³ Ibid, Burnt forest respondent

officials or aid workers. Young, unaccompanied females are among the most vulnerable, as well as women from minority ethnic groups. In Somalia, for instance, rape and sexual abuse in IDP camps is common, with women and children, especially Bantus and Ogadenis, most at risk²⁴

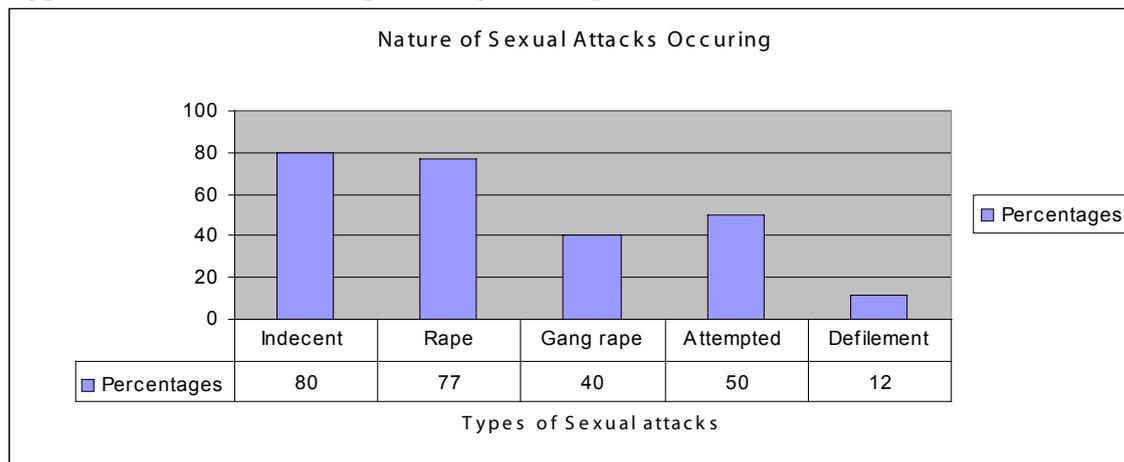
This study shows that vulnerability rates of married female survivors in the displacement camps were lower than those who were ordinarily single or who were separated particularly when it came to issues relating to security and access to basic facilities (most married women said that the possibility of sexual exploitation was minimal because they were married). Vulnerability of single women versus married women is discussed at a later stage of the findings in this report.

Sexual attacks and Gender based violence at the IDP camps

The violence and the inequalities that women face in crises do not exist in a vacuum but are the direct results and reflections of the violence, discrimination and marginalization that women face in times of relative peace. There are, however, particular aspects relevant to sexual violence in conflict.²⁵

The instant study conducted was able to highlight types of sexual violence occurring prior to the respondents coming to the camp and the graph below illustrates the frequency of different types of sexual attacks.

Types of sexual attacks reported by the respondents



²⁴ Conflict Induced Displacement-Gender Impact of armed conflict.

²⁵ Sexual Violence Research Initiative –Sexual Violence in Conflict settings

From the findings it is indicative that indecent sexual assault was the most common and frequently experienced form of attack. This finding however is different from that of service providers who experienced more cases of gang rape than indecent assault. Similarly, the audio-visual documentation carried out by CREAW points to high incidences of gang rape as the prevalent form of sexual violence.

During the period between 27th December 2007 to 29th February 2008 the Nairobi Women's Hospital's Gender Violence Recovery Centre (GVRC) alone treated a total of 443 survivors of Sexual and Gender based violence of which (80%) were rape/defilement cases. The hospital described many cases of the sexual violence cases that attended the facility as victims of systematic gang rapes. In early 2008, a gang of men attacked and sexually assaulted five boys in the Nakuru IDP camp²⁶.

In Kisumu a counselor recalled a case of a woman who was repeatedly raped, physically assaulted and bore knife marks all over her body and who required serious medical attention for grievous injuries she sustained to her private organs. The woman had to be referred to Nairobi Women's Hospital for urgent medical attention.

“Since the violence started we are seeing similar numbers of cases to what we would normally see over the same time span, but there is one major difference: 90 percent of the cases we are seeing since the political crisis began are gang rapes,” The gangs range from groups of two men to as many as eleven.”²⁷Accounts of the study findings included reports of a lady from Mathare who was fleeing from the violence when she encountered a group of approximately twenty men. Some of them carried her forcefully and took her to a nearby stream at a place called Ngomba where they proceeded to rape her in turns.

However, despite the findings indicating indecent assault as the most prevalent form of sexual violations, this anomaly is not fatal as it suggests that awareness levels amongst community members on sexual offences is low purposing that they did not perceive indecent assault as an offence as grave as that of gang rape and therefore did not report the same as often as incidences of gang rape.

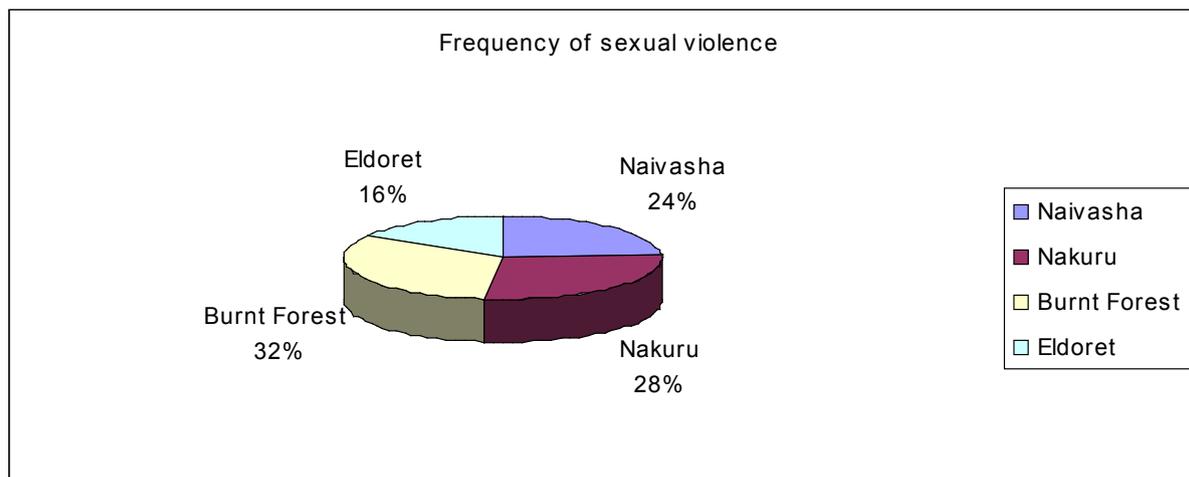
“My daughter was molested in this camp at around 7 pm when she had left the tent to visit the toilets. There was no one who came to her rescue and I don't think there was any police around. When I came home, I was informed about the incident and I took her to the hospital. We got an ambulance and went to Referral Hospital where she was treated. I however did not make any further reports. The reason why I didn't report is because firstly I was thankful to God that my daughter didn't suffer worse fate. Also we have so many problems and I don't think I can handle further processes from the police.” IDP-Eldoret.

Indecent assault was followed closely by rape with high incidences reported variedly in the IDP camps including Burnt Forest and Nakuru.

²⁶ Kenya – Sexual Violence continues in IDP camps, IRIN News, 4 March 2008.

²⁷ Lucy Kiama, head of Gender Recovery Center, Nairobi Women Hospital in Ibid

Distribution of sexual attacks by Site



The chart above indicates the frequency of the responses according to the sites. It should be noted that Nairobi was not included in the survey primarily because most of the Camps in Nairobi had since been closed and information obtained was from Nairobi Women's Hospital which does not treat only survivors from Nairobi but from the regions as well. Statistics from the field study show that Burnt Forest had higher incidences of sexual violence (32%) than any of the other sites visited, namely; Nakuru (28%), Naivasha (24%) and Eldoret (16%). This finding is consistent with media reports which indicated high levels of violence in the area. Events in Burnt Forest were particularly illustrative of the type of violence that spread in the Rift Valley in which large scale violence erupted following the disputed election results of December 2007 with a number of attacks systematically targeting Kikuyu families. Early in the aftermath of the violence, a total of 22 farm settlements and four estates - including at least 1320 houses that belonged to Kikuyu families and hosted some 5,000 people – were attacked simultaneously.²⁸

3.3 Sexual and Gender-based violence and Sexual exploitation

The humanitarian crisis brought on by armed conflicts, such as the loss of homes, incomes, families and social support may put women and girls in vulnerable positions where they have to engage in 'survival sex'. Women may be forced to exchange sex in order to secure their own or their families' lives and livelihoods, escape to safety, and gain access to food, shelter or services.²⁹

²⁸ Report from OCHR Fact Finding Mission to Kenya 6th -28th February 2008

²⁹ Violence against women and HIV/AIDS:-Sexual Violence in Conflict settings and the risk of HIV

Camp protection mechanisms normally do not offer adequate protection. A woman may be placed in a 'safe area' with other women who have been abused, or with single women who are considered more vulnerable. The Centre for Refugee Research at the University of New South Wales in their report, The Case for a UNHCR Conclusion on Refugee Women at Risk, narrates the case of a 17-year-old refugee girl in Kakuma camp who was placed in a safe area for 15 months with no access to education, employment or broad social interaction. Desperate to survive, some of the women in the safe areas engaged in sex for money, which exposed all the other women in the area to harassment and the risk of sexual abuse. Sadly, most refugee women and girls are perpetually exposed to this kind of risk.³⁰

The vulnerability of women and girls during conflict periods is dictated by many factors such as age, marital status and the dynamics of the areas where they are resident for the time being. Statistics discussed earlier as regards to the post election situation in Kenya in this report bearing on demographic profiles of the displaced respondents indicated that 45% of the respondents were married while 10% were divorced, 17% single, 14% separated and 16% widowed.

In terms of accessing basic amenities, most married women are able to rely on their husbands to obtain support for the families thus minimizing coming into contact with people who may demand sexual favours for aid. 45% of the respondents in this study were married.

Female heads of households, and women and girls on their own are more vulnerable to sexual and gender-based violence (SGBV) as they try to provide for themselves and their families since they lack sufficient protection or support.³¹

On this issue, a social worker in charge of distribution of humanitarian aid at Kedong Camp in Naivasha observed that;

“Women who are left widowed and now are the ones to fend for their children in terms of food, clothes and shelter find it very difficult. It is quite unfortunate that most of these widows are unemployed and thus they are not able to provide everything (mostly the basic needs) to their children.”

It was curious, however, to note that while married women or women with partners appear to be less vulnerable to external sources of sexual aggression, they remained vulnerable to violence caused to them by their intimate partners. Women in prolonged camp situations can be more vulnerable to abuse from male relatives or partners as the community structures unravel. In many cases, the increase in domestic violence

³⁰ Kenya: *Refugee Insights on Risks of Encampment for Women*

³¹ Conflict Induced Displacement.

found in IDP camps occurs as a result of the progressive destruction of traditional family and community structures. This is combined with pervasive poverty in the camps. Evidence suggests that unemployed displaced men release frustration through spousal and child abuse. The situation is further strained when they are forced to live in a large camp or settlement where they may be deprived of educational, agricultural and income-generating activities, and have little prospect of finding a quick solution to their plight.³²

The workers in charge of the camps expressed helplessness in meeting all the routine needs of people in the emergency settlements. Accordingly,

“There are no remedial measures put in place to address the plight of women and children. What I can say is that as far as we are concerned we give the relief food, offer medical services but you never know with human beings whatever you may offer as help might not really help the person. To the person offered help, whatever you may do will never really be enough. And that is why I have said that whatever may be happening after we have given the IDPs what we can, we may really do not know...

This account is consistent with the fact that in most IDP camps, there are never any effective reporting systems, and there is therefore still uncertainty about how to respond to such reports from victims.³³ In the camps visited, humanitarian aid workers explained that basic security within the camps was in the hands of informal committees that had been formed in the camps.

The findings also suggest that the breakdown of reporting mechanisms occurs at two levels. One, in the camps where survivors experiencing the incidences of sexual or gender based violence make complaints to informal committee members, and secondly between the humanitarian workers, the security committees and the Police.

The most prevalent form of sexual and gender based violence within the camps was physical assault, followed by sexual exploitation of women (by aid workers, men in the camps) and their own spouses. Police officers interviewed at various police stations reported that they had only received cases of physical assault and none concerning rape or sexual assault. This was despite the high incidences of these reports from other sources. In an interview with the OCS, Naivasha, he agreed with the view that the life in the IDP camps predisposed women and children to greater vulnerability. He explained that:

³² The February 2006 report from the Women’s Commission for Refugee Women and Children, “Displaced Women and Girls at Risk: Risk Factors, Protection Solutions and Resource Tools” highlights the dangers of life in exile.

³³ Intimate partner violence among Afghan women living in refugee camps in Pakistan,” a paper by Adnan A. Hyder, Zarin Noor, and Emma Tsui in the January 16, 2007 issue of *Social Science and Medicine*

“The women and children were the most affected because they are weak and vulnerable to so many things. Mostly because the women are unemployed and they are worried about their children’s welfare in terms of food etc. The nature of the attacks reported is mostly domestic which in most cases takes the form of physical assault. They have so far been 2-3 cases reported on physical assault. The cases are in most cases handled by the community leaders but they can also report to the humanitarian officials as a last resort. The attackers, if found, are arrested and taken to the police”

While both the Police officials and camp managers in the target areas insisted that only very few incidents of rape had been reported to them, this position does not mean that more sexual assaults did not occur but instead point to a serious gap in processing and relaying of information of this nature by the affected people. Survivor accounts within the displacement camps contrasts sharply with statements made by Police and the humanitarian workers in the camps. Certainly, it may be the case that certain reports were not processed through the committees to the level of the police. The following three accounts of rape survivors are interesting to note:

“I am a victim of rape in the camp. I was walking with another girl with her 4 male friends at night. The girl then playfully ran away from us and one of the young men ran after her. I was left with the three others who started asking me to have sex with them. I refused and that is when they pushed me down and raped me; all three of them. It was on a Friday night and on Saturday morning; I went to the Medical tent where they gave me PEPs. I was counseled for about three days and the young men were never arrested. The case was just taken round and round in circles and then dropped. I never saw that girl or the young men again in the camp and I suspect that they have moved out of the camp”

Misuse of position and privileged relationships

In the next case, a girl was reportedly assaulted by her camp teacher who ought to have been providing her with protection and care in the first place. In the incident, it appears that the police failed to act on the case as required;

“I was sexually assaulted by my teacher at the camp school. There was a drama club which had been established and the teacher was the patron. He used to ask us to go to his home for practice sessions and once we were through, he would ask me to remain behind for further instructions. These sessions were mainly in the evening after school and would extend till about 8:30pm One day he grabbed me and tried to have sexual intercourse with me, but I screamed and my sister came to my rescue. He then chased both of us from his house and said that we shall never be enlisted in the club. There was no police as his home is outside the camp. That evening I went and reported the issue to my mother who in turn advised me to report to the police. I took this action because I felt my mother needed to know.

The attacker has been my teacher so I know him. After reporting, the police took down my statement and promised to make a follow up. I later realized that the drama club was disbanded. I however don't think that any further action was taken against the teacher because he still teaches us. Since there was no actual penetration, I didn't go to the hospital³⁴

Other female respondents confessed to the fears that many forms of sexual exploitation go on in the camps. Certainly, older men use monetary favours to entice young girls to have sexual intercourse with them. The following statement speaks volumes to this cynical trend;

“Many young men in the camp approach us wanting to have sex with us. Older men and even security men in the camp sleep with us in exchange for 30 shillings or more. Sometimes they refuse to pay the 30 shillings and instead pay 10 shillings. If you ask for it they threaten to rape you. If you have borrowed money from a man and are unable to pay, the person can force you to have sex with him as a way to pay him. When you report, the person is normally given a warning and then released. Many young girls have become pregnant as a result of these illicit unions. Once they are aware of their pregnancy, they abort the foetuses. There was one time when 2 foetuses were found in the dustbin. An aborted foetus is found thrown somewhere in the compound almost every week”

Accounts of the exposure of women and girls in refugee camps in Kenya to increased level of risk are consistent. Both Kakuma and Dadaab refugee camps report considerable levels of rape and other forms of sexual violence against women and girls. The level of insecurity in the camps compels many women to seek some form of male companionship to increase their sense of safety. Some end up in unhappy unions which, sadly, may be the start of a cycle of rape and violence, unwanted pregnancies, economic dependence and emotional and mental trauma, which collectively lock the woman into a cycle of abuse³⁵.

A camp coordinator in Nakuru comments on sexual violence in the Camps:

“At least four women had reported being raped in the Nakuru camp since it was set up on 30 December. “One of the young women was working in my information office and was being extremely uncooperative and uncommunicative. I was becoming very irritated with her until one of her friends revealed that she had actually been raped a few days earlier; obviously she was deeply traumatized.”

Despite the fact that the women could remember and even identify their attackers, most of them had not sought medical attention or legal redress for the crimes against them. “The women all missed the 72-hour window during which they could receive medical protection from HIV and sexually transmitted diseases, and have medical evidence gathered for legal prosecution of rapists,³⁶

³⁴ Account of respondent at the Eldoret Showground.

³⁵ Kenya: *Refugee Insights* on Risks of Encampment for Women

³⁶ Jesse Njoroge camp coordinator Nakuru- cited from Kenya Environmental and Political News Blog-Article –Kenyan IDP Camps offer little refuge from rapes – 29th January 2008

When it comes to the issue of sexual exploitation the case of girls living in the IDP camps are not very different considering the views of the Camp worker below;

“Girls want to live comfortably here so they give sex to get food and other commodities they may need, like blankets and also to get money. There are also many cases where young girls are cheated into relationships and being vulnerable, they agree but later get traumatized and have nowhere to go. In many cases, I have noticed they are left after sex and they come to report the betrayal to us”

Lack of reporting and enforcement mechanisms

Although the incidences of sexual exploitation were high in the camps visited, there seems to have been little or no mechanisms within the camps to address them or any form of legal advice given to the survivors in the camps. In any case, stereotyping of the incidents of sexual exploitation such as evident from the above statement, which blames the survivors for their circumstances, do not in any way help the situation. However, the humanitarian agencies later attempted to make certain interventions in this regard (see analysis of humanitarian services at the camps)

Privileged differential statuses as a factor for exploitation

The displacement camps are temporary shelters. Most of them did not have perimeter fencing therefore the residents are free to move in and out of the camp. People who are able to secure some form of income were therefore in a position to exploit young girls and women seeking basic services using monetary means to lure them. In Eldoret, respondents identified men who engaged in casual labour outside the camps as well as those being paid by the Kenya Red Cross Society for jobs like camp development and maintenance to constitute part of the privileged section of the IDP residents who offered money in exchange for sex.³⁷ .

In Nairobi, a respondent who formerly was at the Jamuhuri showground agreed;

“The young girls are being exploited by exchanging sex for money because in the camp where we are currently living (now at D.Os grounds, Kibera), they give food like maize flour but no accompaniments like *sukuma* vegetables and therefore we need money to buy those things among others. I think the sexual exploitation can be stopped if there is a way of getting enough food and also sanitary towels for the women.”

Another respondent from Mathare explained the reason why women in the camps tend to be exploited this way:

“I am a 24 yrs old girl kikuyu by tribe, married, with two kids. I abandoned my education in class seven due to lack of fees. My father and mother died of HIV/AIDS and left me to fend for my

³⁷ A rapid Assessment of Gender Based Violence During the Post Election Violence in Kenya-(UNFPA, UNICEF UNIFEM , Christian Children's Fund

sibling. Before moving to this camp, I used to live in Mathare North but we were chased by unknown people. I was not sexually assaulted or raped. However, am also aware that sex attacks happen in the camp and also women and children are predisposed to sexual attacks because they have more needs than the men and they may ask for favours from the men like the police men or the person who gives rations. The victims are not willing to report the attacks voluntarily because they are afraid they may be punished like not getting protection from the enemy or not being given food.”

Destitution and lack of incomes

Displaced women and girls face risks of sexual exploitation linked to lack of adequate survival resources. In the absence of adequate services, women may feel compelled to engage in sex in exchange for the essential resources. In Naivasha, another female respondent concurred with this view, expressing her dilemma on some of the challenges that face women and girls living in transient and deprived conditions like the IDP camps:

“I was not attacked by anyone before I came to this camp. However, by and by I have had to give in to the demands of sex by the men in the camp in exchange for money, I have found that in order to get some money, in order to sustain myself and buy my child milk, I have to have sex with the men for at least a hundred per day. Mostly, I charge one man a hundred shillings for the services. In this camp, there’s the employed and the unemployed, I fall in the unemployed category. Yes, I know these men very well as all of them live in this camp. It is an understanding of some sort that there are no services for free, thus I cannot say I was attacked in any manner.”

According to the findings of the study, acute lack of awareness on sexual offences also contributes to the vulnerability that women face while in conflict situations. Further, the experiences leaves a profound impact on the victims and delays in accessing treatment services may negatively affect personal health of the victims over time.³⁸

Make shift sleeping arrangements, poor lighting and security fencing

Obviously, many cases of sexual violence in the IDP camps may be facilitated by makeshift sleeping arrangements, where men and women are forced to sleep under one tent or out in the open. At the same time there are no regulations in the camps allowing men from the outside to enter unchecked. In Naivasha in particular, women reported fears about sexual victimization linked to inadequate camp design and services, including the lack of lighting, water, sanitation facilities, and availability of firewood.

In many camps, men and women who do not belong to the same family, were sleeping under shared tarpaulins or out in the open, making women feel afraid of the potential for sexual assault. Many girls and women repeatedly expressed concern over the threat of sexual violence in the camps. One respondent recounted how she narrowly escaped being raped.

³⁸ Lievore’s (2005) study of women’s help-seeking decisions and service responses to sexual assault

“While in the IDP camp I had no source of income and thus a man came to befriend me claiming that he was ready to assist me. He asked me whether he would see the tent I was sleeping on and see the things I needed to be brought for so that I could live well. The next day at night he came with some food stuff and I was grateful to him. He then told me that he had to sleep with me in exchange of those food stuffs and I refused. He held me tight and covered my mouth so that I would not scream and he attempted to rape me to which I tried very hard to avoid. Something fell noisily creating a disturbance so he ran away. I was untied by my neighbour who also assisted me out of the situation. It was about 11.00 pm.

The next day morning I reported to the committees that had been formed to deal with the incidence occurring in the camp but they referred me to the police station to report the matter. I then feared and got scared in going to the police station to report the matter since I felt as if I would be the one to be arrested. I can identify the attacker since I had seen him well in broad light and also had interacted with him so I can't get confused though since that day I have never seen him again. Since I never reported this matter to the police station, I believe my attacker was never arrested.”

Institutional insensitivity to the need for security and impunity

The survey revealed that although the nature and frequency of attacks in the camps varied most of the respondents talked of physical assaults. This was also corroborated by some service providers during the key informant interviews as well as the IDPs who took part in the FGDs. It emerged from the interviews that exact number of cases of sexual assault in IDP camps was difficult to ascertain. One of the reasons for this is already alluded to, which is the lack of standardized reporting mechanisms in the camps.

Apart from ad hoc security committees set up by residents in the camps, no formal reporting mechanisms were established for addressing incidents of sexual violence in the camps and consequently no mechanisms were put in place to avert the growing risks of sexual exploitation of women and girls within the camps. At the same time there are challenges associated with acknowledging victimization, including availability of services, the level of awareness about the value of medical assistance, the low degree of public confidence in the police and other security related organs, as well as the cultural tolerance of non-disclosure of rape.

The findings also suggest that perpetrators are exploiting the conflict by committing sexual violence with impunity while efforts to protect the women and girls are remarkably insufficient. There was little evidence that issues of gender-based violence were taken into account in the design and delivery of services in the areas where the camps have been established.

3.4 Reporting of cases of Sexual and Gender Based Violence during conflicts

Reporting and disclosure of sexual violence represents an important opportunity for victims/survivors to receive assistance from service providers and begin the process of recovery. However, numerous barriers to reporting and disclosure operate at both the personal level and at the level of the criminal justice system. Furthermore, victims who have been sexually assaulted by someone they know well, particularly an intimate partner, may not even name what has happened to them as a crime and are far less likely to report than victims who have been sexually assaulted by a stranger. Barriers to reporting and disclosure thus may also be barriers to victim/survivors accessing the specialist services they might require.³⁹

Generally survivors of sexual violence, like survivors of other crimes, face difficulties in accessing justice due to the absence of a suitable link to the justice system. Women also suffer additional obstacles in attempting to access the justice system due to gender-based discrimination in the administration of justice and also patriarchal attitudes, which condone impunity as far as sexual and gender based violence is concerned

Clearly, cultural factors do influence the way that women react to sexual violence and other traumatic experiences. In many cultures, particularly those in which sexual purity is highly valued, women find it difficult to talk about experiences of sexual violence. However, many women in all cultural contexts want to tell their stories, provided that certain measures are taken to minimize the associated trauma⁴⁰

Yet some women will not file complaints to the police on incidents of rape, however horrifying their experiences are, because of sheer cynicism and feeling of loss. The example below is self explanatory:

‘I am 20 years old lady; Luo not married and had a child who died in the house after being burnt in Mathare North. A mob came one night and started burning the houses, several men held me. I can’t be sure how many they were but more than ten. They beat me up and three of them raped me until I started bleeding I pleaded with them because I was thinking of my child and they released me. When I got where my house stood, it was not there. The police were not around at the time of attack but they later came and I was taken to Nairobi Women Hospital. At the hospital I was treated and I was given PEP and counseled. I am still on drugs. The hospital did not charge me anything. I didn’t feel any need of reporting because I have lost everything including my son. I don’t care even if I die. After leaving the hospital I was brought to the chief’s camp then after 3 weeks we were asked to find a place to live but come for food⁴¹.’

³⁹ Services for survivors /victims of sexual assault –Identifying needs interventions and provision of services in Australia- Jill Astbury.

⁴⁰ Sexual Violence and armed conflict- United Nations Response

⁴¹ Respondent in Mathare Survey

The case below is equally heart wrenching but remained unreported:

“I am a 38-year-old single Kikuyu mother of two children. I have been in this camp for about four months with my daughter. That night when the results were announced and they started burning our houses, we ran and hid at Kapsaos Primary School. At night, a group of young men came into the school compound and took several women and raped them. I was among those who were raped. I cannot tell how many of them raped me because they were too many. I could not recognize even one of them. They stopped when they saw that I was bleeding profusely. The tip of my colon had come out and was bleeding. There was no security person around to help us. I am just glad that they did not touch my child. When the people I was hiding with saw how much blood I was losing, they took me to A.C.K church in Eldoret the following day. Somehow, the bleeding lessened and I did not inform the church officials. I just pushed back the colon and kept quiet. The church officials were very young men and women and I found it shameful to approach them about a problem of such nature. I stayed in the church for about a week with the same problem then came into this camp.

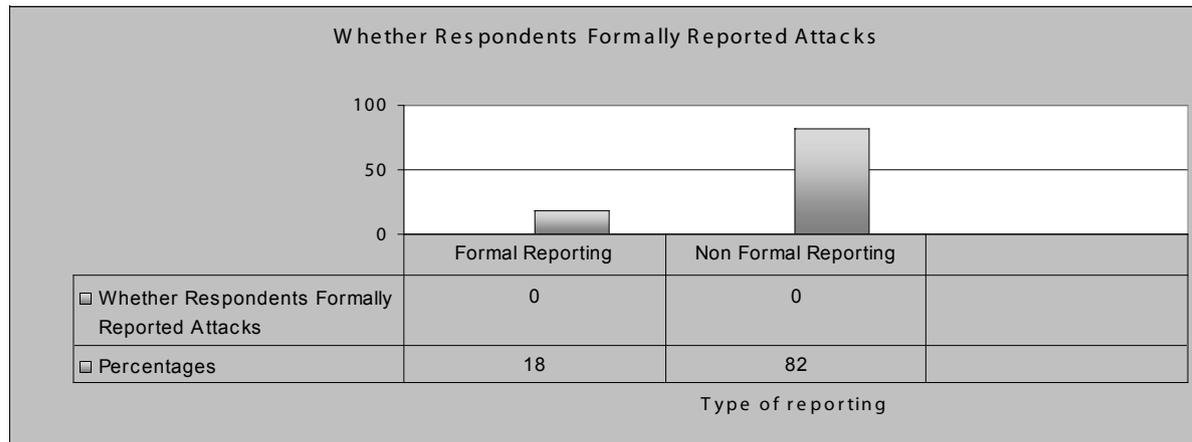
I still kept quiet in the camp until a Family Care volunteer talked to me and I opened up and told her what had happened to me. She took me to the medical personnel in the camp who gave me medication and the Family Care staff counseled me. After some time, while taking the medication, the bleeding came back. This time, it was from the vagina and not the anus. It was so heavy that the medical personnel in the camp took me to Moi Referral Hospital where I was admitted for 3 days.

I am better now but the colon still comes out especially when I am passing stool and so I take such a long time in the toilet because I have to push it back. I also have back pains and the rapists infected me with the HIV virus. I do not see the need to report the attackers because I do not know them and therefore, where would I find them?⁴²

The section below is an analysis of the dynamics involved that influenced reporting or non-reporting of sexual violence cases among respondents during the post election violence. As shown in the graph below, a staggering 82% of survivors of sexual violence interviewed did not formally report the incidents to the police.

⁴² Narrative of a female survivor Eldoret

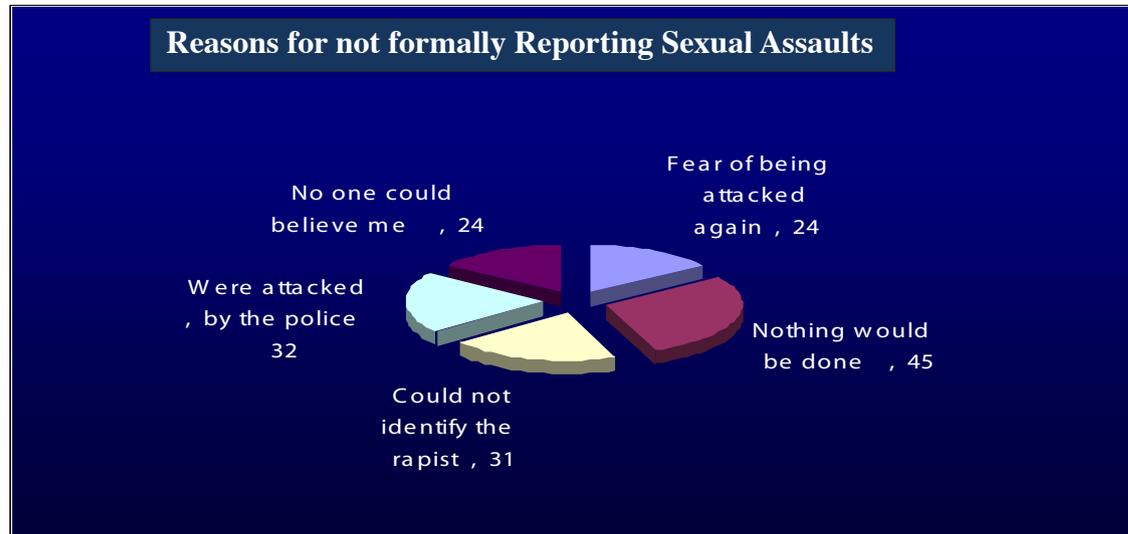
Whether or not they formally reported the attacks



The high level of non-reporting of sexual violence cases can be attributed to lack of awareness on the law and or minimal understanding of human rights. In addition gender discrimination, lack of sensitivity and understanding of the nature of sexual crimes all contribute to minimal confidence in the way police handle sexual violence cases, the manner in which trials are conducted and concluded. The absence of protection for victims and witnesses is another factor impeding justice for SGBV survivors.

The following chart illustrates different reasons for survivors not formally reporting incidences of sexual violence.

Reasons for not reporting



Moreover, fear of reprisals prevents many victims/survivors from reporting the crime and seeking justice and redress. In addition, there are few specific and affordable support services for rape victims such as legal aid or psycho-social counseling. These are some of the factors which determined whether the survivor of sexual and gender based violence would be motivated to report the violation.

Lievore (2003) captured a number of personal barriers to disclosure including shame, embarrassment, regarding the issue as a private matter, not thinking what has happened is a crime or not thinking it is serious enough to report to police, not wanting anyone else to know, self blame or fearing blame by others for the attack, victims preferring to deal with it themselves; and wanting to protect the perpetrator or the relationship or children.

According to the findings, high percentages of victims report their attacks to immediate family members, friends and the Church while the lowest scores constitute reports to the police, local administration and Husbands. This is consistent with studies which suggest that women are even more afraid to report their cases to the police or to the local authorities than to their families⁴³. This also tallies with accounts from the key informants and other people in authority who said they did not receive any formal complaints relating to rape.

⁴³ The Crushing burden of Rape and sexual violence in Dafur

This is a big indictment for people who exercise formal authority since as duty bearers; they should endear the confidence and trust of the people under their service. Yet as noted from the OCS, Naivasha:

“No one came here to report that they had been raped. The only reports we have concern physical assault, destruction of property and looting. As far I am concerned no report of rape was recorded here.”

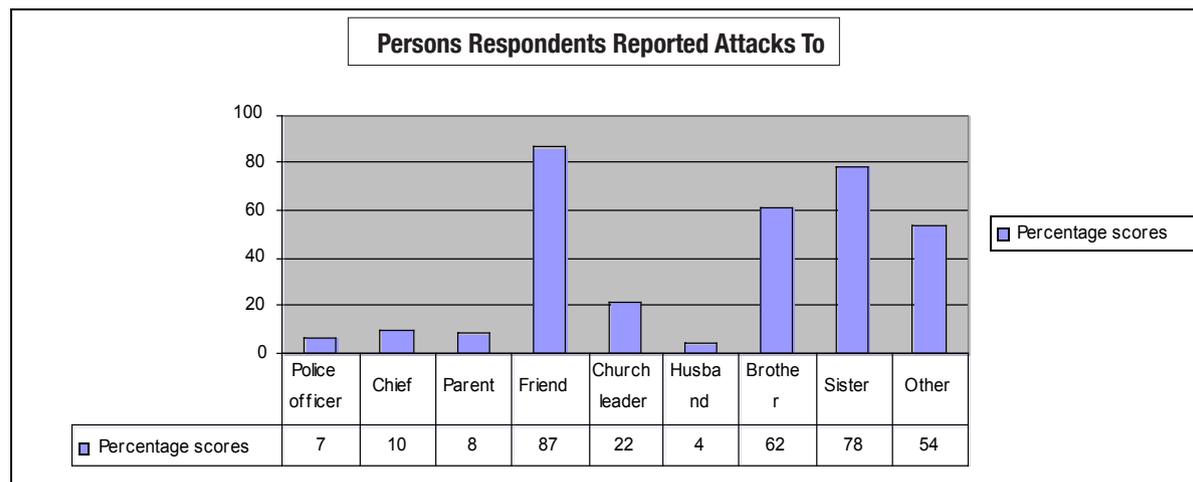
Certainly, survivors of sexual atrocities can not wait to see justice done on their cases. They become disappointed when little action follows their reports. This sense of frustration and despondency is hurtful and easily affects how they relate with the law enforcement agencies wherever they are faced with similar challenges in the future. A respondent from Mosombor described the following incident to the investigator during the field survey;

“Am a Kikuyu, married woman aged 48 years. I was living in Mosombor before coming to this camp. I’ve lived in this camp for over three months. We were in the house having our supper at around 9:00 P.M at night, when a group of men entered into the house and started harassing us. They undressed us and started touching us badly after which they raped us. Since all those men around five of them were raping us, I could not bear the pain so I started screaming. This made my husband bitter and he came to rescue us. By the time he came, the other men started beating him terribly and ran afterwards. Before leaving our compound they told us to leave the house and they set our house ablaze. We struggled to walk up to the police station where I reported about the incidence and since then I have never heard anything from the police”

A separate Rapid Assessment documentary of GBV during the post election violence by CREAM reiterates this reality and captures the voices from women interviewed in Burnt forest who said it was unlikely that a victim would report an incident because reporting would not be viewed as a priority compared to other immediate concerns such as security, food, caring for children etc. According to many women caught in a situation like this, the priority for them is how to live on.

Lievore’s (2005) study of women’s help-seeking decisions and service responses to sexual assault found that a quarter of the women interviewed either did not or could not name what they had experienced as sexual assault. Yet, even if an experience is unnamed it can still exert a profound impact. At the same time, when an experience of sexual violence remains unnamed, delays in accessing services may occur, negatively affecting the victim/survivors personal health and social outcomes over a long time.

The graph below shows where the reports of sexual violence gathered in this survey were first made to;



Lievore (2003) also cites a number of barriers to disclosure at the level of the justice system which include believing that the police would not or could not do anything or would not think it was serious enough; fear of not being believed or being treated with hostility; fear of the police and/or the legal process; lack of proof that the incident occurred; not knowing how to report; and doubts that the justice system will provide redress.

Key informant interviews revealed that the women in the camps also feared to report sexual violence perpetrated by their own spouses for fear of losing their economic support. The camp manager in Naivasha (Kedong) explained that women may fear to report the incidents to them, especially if it's the husband who is the attacker because in most cases, it is the man who is the breadwinner in the house and therefore they offer to protect their financial security.

It should be noted that about a quarter of the respondents maintained that they would not report cases of rape or sexual violence against them for fear of being attacked again (24 %) while 28% of the respondents have actually been warned not to report. This is outrageous and definitely details the illegitimate power that perpetrators of S&GBV continue to hold over their victims. This is very true in cases of gang rapes and sexual assaults particularly where the survivor is able to identify the perpetrators. A similar case in which a victim knows some of her attackers is reproduced below:

“I am a 40 year old Kikuyu woman widowed 3 years ago and had 4 kids before one died on 31st of December 2007 due to the post election violence. I refused school in class six because I went to be married and was living in Gatwikira, Kibera. We were beaten at night and my house burnt. By the time of attack, no police was around so we ran away to the Jamhuri show ground. We reported the attacks to Kenya Red Cross Society. The attackers are known but not by name .One used to pass via my shop and buy cigarettes and refers to me by my name. I don’t know what was done with the attackers because I have not gone back to my former house.”

The dilemma and jeopardy for child victims and survivors of SGBV

Indeed for child survivors, it can be worse. This is because the decisions of children pursuing cases like rape are dependant on the actions taken by their guardians or parents. Without their cooperation, children’s right to do so could get compromised. The following brings out that compounded situation;

“The people who raped me were like six in number and I could easily identify or knew one of the attackers since I used to see him pass near my home when grazing cattle out in the field. One day, I saw this attacker that am describing off and I immediately told my father that I had seen him at the road side since when I reunited with my family I explained to them what had happened and they knew my story. My father assured me that we will go to the police and report. Afterwards friends came towards us and stopped my father. They asked him where and what he was going to do. They pulled him aside and begun talking to him. I then saw him being given some money. I asked my father what went on, and he ordered me to stop the issue and go home (nyamaza ama nikupige, nenda nyumbani). Since that day the matter was never reported to the police station and I remained silent and lost hope”

Low levels of education tied with single parent households also increased vulnerability of women to post election violence in terms of not being able to protect themselves from attacks and also being unaware of their rights and mechanisms which they could pursue to report the incidences and seek redress. They watched helplessly.

Other categories of victims not reporting their cases to the police comprise of those who could not identify the rapists (31%) respondents who felt that no one would believe them (24%) and finally the people who felt too ashamed to report the incidents (23%). These figures are indicative of the burden of proof and the fear of stigmatization that survivors of sexual violence experience which in turn influence levels of reporting, with the tragic results that most of the survivors, just like the respondents interviewed in this study (82%) do not formally report the sexual assaults.

In Burnt forest, a rape survivor confessed that:

“After the rape ordeal I sought refuge at the IDP camp that had been established in Burnt forest. Let me say that I did not report the attack on me to any one neither any institution because I felt ashamed and I knew that if I reported it, no one would believe what I was saying since I couldn’t establish who the attackers were.. However later on while staying in the camp, I revealed that information to a girlfriend of my age that encouraged me on the way to go about with life and promised not to tell anyone of my story. I kept this information to myself and therefore since I did not report this anywhere, I know that nothing has been done to the attackers I feared reporting the attack on me since I felt embarrassed, and I also feared that the same attackers or their community may attack and kill me”

In many incidents, the survivor would hardly remember the attackers or figure out their identity. Fresh apprehensions of personal safety may then dissuade them from taking action on their violations as the following interview reveals;

“On the 31st December 2007 at 9.00 pm that was when our home was attacked and we all fled in different directions in fear of our lives. I managed to find a place for shelter and at wee hours of the night while still living in fear, I heard the attackers coming towards the place I was hiding and I immediately begun running away again. The attackers chased me for quite a distance where they managed to catch up with me and put me to the ground and begun raping me. On that night the police were not nearby to assist me and no one came to my rescue to assist me since I tried to scream but my mouth was held. They later on finished raping me at about 1.30 am and left me helpless and I remember they were like five people. I was not able to establish their identity by face though I knew they were Nandi through the way they talked”.

The apprehension towards reporting is not completely unfounded particularly in situations where patriarchal attitudes persist and act as a deterrent to reporting of cases. This was normally the reason why women victims of sexual assault avoided the security committees at the camps. An elderly respondent at a FGD meeting in Kedong claimed that no man can lay a finger on a woman without a reason, and that the two parties are competent to solve their issues. This clearly is an exposition of the chauvinist views of some communities that have hindered women’s attempts to redress sexual violations.

Other respondents claimed they could not report the incidents because they had been attacked by the law enforcement agents themselves (32%), had been asked not to pursue the matter (34%) and finally, did not know where to report (27%). Some respondents emphasized that sexual assault by persons who are in positions of authority may be difficult to pursue due to the powerful positions they hold within the community or the local administration.

One case study in Eldoret actually captured the scenario as to why the survivors were unwilling or otherwise reluctant to go to the police:

“It is a police officer who raped me, how could I even contemplate reporting the attack to his friends, only God will judge him”

Vulnerability of women and girls during conflict periods can also be heightened by increased insecurity particularly where agents of the state are complacent or themselves take part in committing some of the atrocities reported. This again bears negatively on the ability of the survivor to formally report sexual violence particularly where the perpetrator is an agent of the state. The following incident illustrates this reason;

“I was attacked by a police man when we came here on 31st December at night through pulling me aside. I thought when he was doing that he was helping me. Little did I realize I was down where he tore my clothes and raped me at night in the school where we were hiding. My father came to rescue me but it was too late since the policeman had already left. My father looked around since I could identify the attacker. They went aside spoke for a while, the following day in the morning I was taken to that hospital given an injection and tablets for four days. I was asked to go back for a second injection the day after that. I had to report this because the feeling was strange how the policeman held me down and put me on the mat. Things were being overtaken by events; one time screams next minute people fighting and sound of gunshots!”

Yesterday I met a father of a girl who is around 15 years old and who had been locked in the house and was being sexually assaulted by a police officer. The father of the girl was pleading with other police officers standing outside to help him rescue his daughter but they ignored him. I saw this with my own eyes. I’m not talking about something I was told but something I saw myself”.

A survivor’s negative experiences or the experience of people closest to them - family members and friends - with the criminal justice system and health service providers (including counselors) can contribute to ill cooperation and reporting of cases. This is called the fear of secondary victimization. Such victimization is likely to exacerbate existing psychological distress and delay recovery from the initial trauma (Campbell & Raja, 1999).

3.5 Humanitarian needs and services in the IDP camps

One of the objectives of this study was to identify the needs and concerns of IDPs. It was also important to find out the services rendered to the IDPs in the camps. The purpose of this endeavor was to merge the needs and the services being offered. This would facilitate a deeper understanding of what the IDPs living conditions in the camps were like. According to the study findings, the main services offered at the camp included medical services, supportive counseling, emergency contraception, Care for HIV/AIDS, basic wound care, Hepatitis treatment, security and legal aid.

The reasons for their assessments varied from one camp to the next. Nevertheless, what was cross-cutting was the general dissatisfaction with the services being offered. However, most respondents were satisfied with the efforts being made to make them comfortable. Some respondents felt that the services were appropriate while others felt the services were not only inadequate but also inappropriate. According to the service providers interviewed, rape and sexual assault survivors receive PEP, emergency contraception and supportive counseling services. However, many respondents complained that medical services such as PEP and sanitary facilities were stretched within the camps and that many were not aware whether or not such facilities were available at the Government clinics or health facilities in their areas.

The services at the camps were provided by well wishers and Humanitarian Aid Organizations. The Government services were limited. Humanitarian agencies provided health and sanitation services. Several organizations were identified in the field visits such as UNHCR, Kenya Red Cross Society and Girl Child Network, among others. As regards the provision of security, the IDPs had to supplement government efforts by forming vigilante groups to counter potential attacks from outside the camps.

Nonetheless, some of the respondents thought the services were neither appropriate nor adequate. For instance some respondents complained that the maize flour given out was expired although this could not be independently verified. Some of them complained that the maize flour was salty. They also pointed out that children lacked special diet and observations were made of children who are too young for weaning being fed on adult food. The medical supplies were also not adequate and neither was provision of sanitary facilities for women readily available.

Security was the most pressing issue as far as the provision of services was concerned. Most of the respondents felt that security in and around the camps was inadequate. During the period the study was carried out mass action rallies were quelled by huge numbers of paramilitary units in and around Nairobi. It was curious to observe that the heightened visibility of security agents was most notable during this period of mass action but paled in comparison to the level of security in and around the camps which were open to external aggression. As observed by one IDP at the Nakuru show ground;

“They have many police and soldiers who only come out when there is something to do with politics. Where were the Police when our houses were burning and our children being raped and killed? We hear that there are many police in Nairobi to stop ODM from holding meetings why cant they bring some more police here also?.”

Curiously, certain camps such as the Kedong Camp in Naivasha were more secure than others. Generally, security presence remained wanting but few police officers would patrol the IDP camps to ensure security. Although certain camps such as Kachibora and Kedong were established near police posts there nevertheless remained clear abdication of government’s duty to ensure that equal standards of security was employed. This was clearly in violation of constitutional provisions which provide for the right to liberty, security and protection of the law.

The disparities in security was evident on the ground in areas like Naivasha where the Kedong camp had more security in terms of sufficient lighting and a perimeter fence compared to the stadium camp which had poor lighting and was not fenced.

A camp coordinator in Nakuru recalls an experience that raised serious security concerns;

“Last night, when violence broke out in town, we had only six policemen to guard more than 5,000 IDPs here. The IDPs are housed in huge marquees set up on the Nakuru showground, where fairs and other events are held. “We have had threats from local youths, who come armed with bows and arrows, so we have organized 400 camp youths to surround the showground’s fence to protect residents.”

Police reinforcements over the weekend failed to stop hundreds of youths from invading the camp on Saturday morning; the group was held off by the local sentries, but the attack only highlighted the need for greater protection for IDPs. As young men rushed to fight the invaders, children, women and girls were left on the premises without any protection.⁴⁴

A humanitarian cluster on Protection attempted to address some of the concerns on gender based violence in the camps. UNHCR, UNICEF, KRCS and WFP distributed Standard Operating Procedures for Prevention and Response on GBV and Standard Reporting Forms to improve monitoring of cases and prevention activities. UNHCR and the Danish Refugee Council addressed some of the Gender-Based Violence in the camps, conducting mobile clinics in the camps to identify cases and provide treatment. (Kenya Humanitarian Update Vol 16, April, 2008)

⁴⁴ Jesse Njoroge camp coordinator Nakuru- cited from Kenya Environmental and Political News Blog-Article –Kenyan IDP Camps offer little refuge from rapes – 29th January 2008

Later, the humanitarian agencies established a Sexual Exploitation and Abuse (SEA) working group that worked with gender advisers to make sure that SEA is addressed in a systematic way through capacity building and the establishment of sustainable co-ordination structures. The Sexual and Gender Based Violence sub-cluster formed an advocacy working group to raise awareness about GBV issues. The cluster indicated that it would be lobbying for reform of the current system whereby GBV survivors have to be examined by a government's certified doctor, who fills in a Police Medical Examination Form (P3), in order to take a case to court (Kenya Humanitarian Update, Vol 21, 8).

In Nairobi, the researchers came face to face with another dimension of discrimination. Some of the IDPs said they could not access services from some providers because they belong to different ethnic communities. One respondent had this to say about one service provider in Kibera.

“.....but I think the person in charge of issuing food should be chased because she refuses to give people food since they don't come from their tribe, she hates the kikuyu very much and talks to them badly...”.

Another humanitarian agency, World Vision recorded a number of protection concerns arising during and following the distribution of food and non-food items in the IDP camps in a similar manner. Concerns included discrimination in distribution by camp committees, lack of complaints mechanisms for IDPs and lack of adequate monitoring and follow up. The agencies involved in humanitarian assistance did not follow minimum protection standards in the exercises.

Investigators from World Vision were reportedly told that girls as young as 13 years old engaged in sex for cash in order to obtain basic food and non-food items⁴⁵. This was apparently a result of not being reached in the distributions of these utilities. Mostly affected were girls particularly made vulnerable because they came from the poorest families in the camps. At the same time, there was lack of support for children in the camp in terms of play equipment and counseling support. Other organizations like CARE, the German Agro Action and UNICEF later attempted to distribute some of these facilities in selected camps but there was always more need for the same than what was available.

Reportedly because the camp committee decides who will receive what, most of the distribution reportedly went to the rich members of the community. As a result some of the girls from the poorer families were selling sex for cash to be able to get food and non food items. According to the report, lack of a complaint.

⁴⁵ World Vision Report of Rapid Protection Assessment in Lake Region, North Rift Valley and Nairobi IDP camps, March 2008

mechanism worsened the situation. Some of the women who complained in the Burnt Forest IDP camp were taken to the police station, and in one case, it was learnt that someone was whipped at the Police Station in connection to a similar complaint (World Vision, 2008, 5).

It is also important to acknowledge that the service providers were facing numerous hurdles in their quest to serve the IDPs. It was noted that keeping records of the IDPs was a staggering task given that some of them were not genuine. Apparently some unscrupulous individuals from the surrounding areas had taken advantage of the situation. They could come to the camps in the mornings to receive relief food and leave in the evenings. Accordingly this was stretching the services provided in the camps.

CHAPTER FOUR: CONCLUSIONS AND RECOMMENDATIONS

4. CONCLUSIONS

The Post 2007 Presidential Election violence encompassed unprecedented shocking scales of ethnic, sexual and gender based violence. However, while entire communities suffered the consequences of armed conflict and terrorism, women and girls were particularly affected because of their status in society and their sex. Parties to the conflict often rape women with impunity sometimes using systematic rape as a tactic of war and terrorism. The impact of violence against women and violations of the human rights of women in such situations is experienced by women of all ages, who suffer displacement, loss of home and property, loss or involuntary disappearance of close relatives, poverty and family separation and disintegration, and who are victims of acts of murder, terrorism, torture, involuntary disappearance, sexual slavery, rape, sexual abuse and forced pregnancy in situations of armed conflict especially as a result of policies of ethnic cleansing and other new and emerging forms of violence .

During this period while observing trends in sexual and gender based violence that had emerged the study captured dynamics that led to or fostered sexual and gender based violence during the conflict period and highlighted the prevalence of sexual and gender based violence before and during the post election conflict.

The study has also highlighted gaps that ought to be addressed through enactment and development of legislative and policy frameworks that would address key fundamental human rights concerns facing internally displaced persons. Some of the gaps identified relate to the provisions of adequate health services generally but particularly to female survivors of sexual and gender based violence.

Access to justice for the women survivors of sexual violence during conflict periods poses a great challenge to the reconstruction process. The importance of reliable and accessible dispensation of justice will be important in rebuilding the lives of the IDPs who clearly have very little confidence in the government institutions after failing to get support, like security, from them during their time of need.. Improved access to justice for vulnerable groups like women and children was noted as a fundamental gap during interaction with the respondents.

Low levels of awareness on human rights and sexual offences also contributed to prevalence of particular sexual offences during the Post election violence. The findings of the study show that offences relating to sexual exploitation were committed with impunity and still, many victims felt helpless and unable to pursue their violators. The fact that sexual violence and exploitation was prevalent in the camps was borne out by

various testimonies and illustrations in the study. This would require more attention from the government. Finally, Kenya faces a very serious problem in terms of addressing the problem of internal displacements. The IDP situation in Kenya in which people are kept in safe zones by government authorities to wait to return to their homes if the conditions from which they have fled have improved seem to have become repetitive during elections. In addressing this situation now, a more durable solution ought to be formulated.. This study revealed deep failures by the government to address the humanitarian needs of the IDPs, many of whom their lives have been shattered having completely lost their livelihoods. New operations of this nature must address themselves to issues like gender needs in the IDP camps, security issues and the curbing of all forms of violence within and around the camps.

Various human rights instruments are in place to reinforce the rights of women. States must conform to the UN Conventions and Treaties that protect women against violence of all kinds in their daily lives including gender based violence and sexual exploitation. As such, bold steps must be taken to eradicate these kinds of violence and improve the existence of support services for women who are survivors of aggression or abuse. The World conference on Human Rights held in Vienna, Austria in 1993 suggested a new instrument on this question leading to the Declaration on the Elimination of Violence against Women. The declaration stresses that violence against women is an obstacle to the achievement of equality, development and peace, a violation of the rights and fundamental freedoms of women and a manifestation of historically unequal power relations between men and women which have led to domination over and discrimination against women by men.

The total resettlement of internally displaced persons in Kenya should ultimately bear on the regional Great Lakes Region Pact on Peace Security and Development and the protocols there under especially the Protocol on Internally Displaced Persons which among others provides guidance to States when addressing issues relating to internally displaced persons. It is in line with this framework that several recommendations have been made below to the respective government authorities for implementation forthwith.

This is important considering that other recommendations in the past around violence against women exist but have not been implemented. Any more delay in setting up the required mechanisms for their implementation promotes the same violations of women's rights at all levels of civil and public life.

KEY RECOMMENDATIONS

This study makes recommendations on the National Priorities arising from the crisis and to various duty bearers so as to address the issues that have been raised therein.

The fundamental need for constitutional and other governance reforms

- i. The country should urgently undertake fundamental and comprehensive constitutional reforms that will truly respond to the needs of the country. Such a constitutional review must be people driven, democratic and informed by the various internationally agreed principles of democratic, developmental and human rights driven governance. Constitutional reforms must not be state driven but people driven. Women must have a major say in the making of that new constitution to reflect pertinent principle that secure the interests of women and children in society.
- ii. Far reaching land reforms are required should be carried out in Kenya to ensure that not only the management and use of land is discussed and provided for as the current proposed land policy does but indeed historical injustices regarding land and property ownership are addressed in a comprehensive and satisfactory manner.
- iii. The issue of promoting national cohesion and co-existence is fundamental. An integrated approach, as opposed to a political strategy to weaving a united and cohesive nation is a priority for Kenya. Ethnicity in Kenya has become the most powerful driver of the political process and it has a massive impact on policy making and even in development administration and distribution of public resources. Ethnicity has become the greatest threat to national cohesion and indeed human rights. It must therefore be discussed openly and a holistic strategy developed to address the ethnic question in Kenya. relevant constitutional measures should be taken to address challenge and threat to the wellbeing of the citizens of Kenya.

To the Office of the President we recommend the following:

- i. Ensure that all individuals in positions of authority, including community leaders and governors who abet violence against women and girls are investigated, and held politically and criminally responsible for their actions.
- ii. Publicize, through radio, print, and other media, the government's support for women's rights to equality in all aspects of their public and private lives, including freedom from cruel, inhuman, or degrading treatment.
- iii. Conduct trainings either directly or through existing programs such as the GJLOS sector wide reform program to sensitize public officers on the Human rights and provisions of the Sexual Offences Act, (2006).
- iv. Direct and coordinate the relevant Ministries and Agencies to undertake the domestication of the Great Lakes Region Pact on Peace Security and Development and the protocols thereunder.

To the Ministry of Internal Security and Provincial administration:

- i. Implement the government's earlier decision to form domestic violence units in each police station.
- ii. To work together with Judiciary to ensure the speedy and professional implementation of the Witness Protection Act (2008).
- iii. Provide additional security to complement the police force particularly in highly volatile areas during political tensions and hostilities that could result in new eruptions of violence.
- iv. Mobilize for and act together with the other Ministries and Agencies for the domestication of the Great Lakes Region Pact on Peace Security and Development, and the protocols thereunder.

To the Attorney General

- i. Encourage women and girls to report domestic and sexual violence to the police and the public prosecutors through swift and respectful investigation and prosecution of offenders particularly those who perpetrated sexual offences during the conflict period.
- ii. Speed up completion and operationalization of the National framework designed to implement the provisions of the Sexual offences Act such as witness protection and provision of free medical services to survivors of sexual and gender based violence.
- iii. Work together with other key Government Ministries and Agencies to lobby for the operationalization of the implementation of the Witness Protection Act 2008.
- iv. Increase the numbers of specialized prosecutors and carry out continuous training of Prosecutors and Police Officers on the provisions of the Sexual Offences Act 2006.
- v. Systematically collect and analyze data and provide regular public updates on the number of complaints filed for domestic and sexual violence, and the outcomes of legal proceedings.
- vi. Work with the Ministry of Justice and Constitutional Affairs to speed up the finalization and the implementation of a National Legal Aid Scheme to facilitate access to justice especially for women and children.

To Parliament

- i. Domesticate the Great Lakes Region Pact on Peace Security and Development and the protocols thereunder.
- ii. Ensure that a new Constitution is passed immediately which addresses fundamental human rights concerns that emerged during the post election violence.

- iii. Immediately pass legislation that would provide necessary systems and structures for Peace building and Reconciliation at a National Level and in the communities affected.
- iv. Pass pending Bills that affect the status of Women and Children in Kenya such as the Family Protection Bill, Equal Opportunities Bill and the Marriage Bill.

To the Ministry of Gender

- i. Establish a specialized department within the ministry to deal with sexual and gender based violence. This department should establish policies and internal regulations, which currently do not exist, to guide the ministry's work on all aspects of sexual violence.
- ii. Establish synergies with other Government Ministries as well as non-state actors to speed up finalization and implementation the National Policy on Gender Based Violence.
- iii. Work with other Ministries and Agencies as well as non state actors to create national awareness on provisions of the Sexual Offences Act 2006 both within Government structures and also at grassroots levels.
- iv. Establish quality shelters or other safe spaces for women and girls survivors of sexual and gender based violence.
- v. Create emergency response centres which include telephone hotlines to assist survivors of sexual and gender based violence at a national level.

To the Ministry of Health

- i. Establish Gender Recovery Centres at all Government Hospitals nationwide and deployed trained and competent personnel to professionally deal with survivors of sexual and gender based violence.
- ii. Undertake national training of Government medical personnel to recognize and respond appropriately to cases of sexual and gender based violence. This training should also incorporate legal requirements that are necessary to sustain prosecutions in cases of sexual and gender based violence.
- iii. Operationalize the provision of psycho-social support and provision of health facilities to remote areas through the use of mobile clinics.
- iv. Set up a training program on addressing sexual and gender based violence as part of the curriculum at medical schools and institutes.

The Ministry of justice, National Cohesion and Constitutional Affairs

- i. Hasten the publication of the Kenya National Human Rights Policy which must give particularly emphasis to the access to, promotion and protection of rights of communities but particularly the rights of women and children in conflict situations.
- ii. Offer leadership in the implementation and coordination of all the policy proposals outline herein as the ministry tasked with the enhancement of justice, human rights and National Cohesion.

To the International Donor Community

- i. Persuade, Inform and support the Government of Kenya to fully domesticate various international instruments to which it has assented to, such as the Great Lakes Region Pact on Peace Security and Development and the protocols thereunder.
- ii. Donors supporting women's projects should create mechanisms to coordinate their gender assistance program in order to enhance the impact of these efforts and avoid duplication.
- iii. Support programs providing services for victims of violence. These services should include women's shelters, medical care, counseling, literacy classes, job/skills training, and legal aid.
- iv. Support an intensified capacity building for local professionals and enhance the use of local experts as much as possible in all donor-funded training and projects. Local experts should be consulted and included in all aspects of program design and implementation to ensure that donor funded interventions are appropriate and effective.
- v. Assist the Government of Kenya and local NGOs toward the better training of police officers, public prosecutors, doctors and judges in handling cases of S&GBV and particularly cases of violence against women and children.
- vi. Support programs that seek to review and reform existing laws to ensure that they are consistent with Kenya's commitment to uphold human rights principles outlined in the CEDAW convention and other international human rights treaties, do not discriminate on the basis of sex or gender, and afford women and girls equality of access and opportunity.

Non State Actors (CSOs)

- i. Engage with existing agencies involved with sexual and gender based violence such as UNHCR, UNICEF, CARE International and Kenya Red Cross Society etc to ensure the consolidation of a wider advocacy strategy to lobby for domestication of the Great Lakes Region Pact on Peace Security and Development and the related protocols.
- ii. Engage at a policy level agencies dealing with sexual and gender based violence to develop mechanisms for addressing sexual and gender based violence through peace and reconciliation forums in the communities.

- iii. Move to engage with budgetary processes through lobbying forums (with ministry of Finance/ planning, etc) to secure funding for activities that address SGBV and implement frameworks that address provision of essential services such as health and legal aid to survivors of SGBV.
- iv. Identify allies to step up pressure and lobbying activities for the domestication of Great lakes Pact on Peace and Development together with its protocols there under, specifically the Protocol on the Prevention and Suppression of Sexual Violence against Women and Children
- v. Heighten campaigns aimed at the promotion of Human Rights-Masculinity and the transformation of the culture of violence into one of dialogue.

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