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THE GENDER DIMENSIONS OF VIOLENCE AND CONFLICT: THE CASE OF INTER-ETHNIC LAND CONFLICT IN MT. ELGON, KENYA[*]

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The violence displayed during the inter-ethnic land conflicts in Mount Elgon–which started in 2005 and escalated in the midst of the nation-wide 2007 Post Election Violence–reveals not only the limits of post-colonial states to reverse the colonial expropriation of land that destroyed indigenous land tenure systems and accentuated inter-ethnic conflicts; it reveals the gender dimensions of the conflict, where men and women were differently affected before, during, and after the conflict. While gender and sexual based violence (GSBV) was not restricted to women there were important differences that confirms the subordinated status of women and the heavier cost they had to pay. While men were also subjected to GSBV in the form of torture and/or castration it was mostly some young men who were targeted for this abuse. By contrast, women raped and sexually abused ranged from little girls to old women, since women of all age were targeted for GSBV; while men experienced GSBV only during the conflict as inflicted either by enemies or the army, women experienced GSBV before, during, and after the conflict. Not only did they experience it from the militia, the army or the camp's guards but also from their own husbands in the form of domestic sexual violence; women also carried the stigma of rape and abuse

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forever after the episodes. While SGBV[1] seriously challenged the masculinity of those individual men affected, it did not challenged the patriarchal hierarchies that keep women and girls subordinated, unable to find a nurturing environment to heal their wounds after the conflict. On the contrary, after the GSBV and abuse, women faced stigma and isolation and severe health issues in a context of social disruption of family, kin, and clan structures. The different ways men and women were affected by the conflict has severe implications for the post-conflict interventions which being gender-blind, have not been gender neutral, reinforcing female subordination and trauma among the survivors of the conflict. Some reflections on how to make post-conflict interventions more gender-sensitive are also presented.

1. Introduction

Violence affecting civilians is becoming more and more prevalent in developing countries and inter-ethnic land disputes are behind many of these conflicts. This paper is presenting the case of Mount Elgon in Kenya where inter-ethnic land conflicts exploded after 2005 –reflecting the limits of post-colonial states to solve land issues and to fairly integrate the demands of different ethnic groups. When violence escalated it triggered an aggressive intervention of the military to restore "order", which was quite traumatic for the civilian population. This paper will briefly present the structural roots of the conflict and how it was managed by the state, and focus mainly on the gender dimensions of the conflict: the different ways in which men and women from this area were affected by GSBV, the conflict, and post-conflict interventions. We will show that while the conflict affected both men and women, there are important differences in the way they were affected, which express and reinforce patriarchal ideologies and institutions, and further marginalize and subordinate women. As we will see, there is a big gap between the international frameworks and agreements protecting human rights and preventing violence and GSBV, and what happens on the ground. There is growing acceptance that GSBV and female subordination severely undermine the building of post-conflict stability and peace (UNFPA, 2006; Barr, 2011). We present this case study to share some lessons that could help to better manage conflict and post-conflict situations in a way such that these

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[1] While the term "sexual violence" is used to denote sexual exploitation and sexual abuse, referring to any act, attempt, or threat of a sexual nature that results, or is likely to result in, physical, psychological, and emotional harm, the term "gender-based violence" (GBV) is used to distinguish violence that targets individuals or groups of individuals on the basis of their gender from other forms of violence; it includes violent acts such as rape, torture, mutilation, sexual slavery, forced impregnation, and murder; the term "gender-based" frames this sexual violence within the unequal power relationship between women and men in a given society. This does not mean that all acts against a woman are gender-based violence, or that all victims of gender-based violence are female (United Nations High Commissioner for Refugees (UNHCR) and UNIFEM as cited in IRIN, 2012).

interventions do not justify and perpetuate the marginalization and subordination of women.

2. Land Conflicts in Kenya

Land tenure refers to the terms and conditions under which rights to land and land-based resources are acquired, retained, used, disposed of or transmitted. Land tenure regimes in Kenya are fragmented, complex, and political. For instance, land rights are quite indeterminate for lands under the Trust Land Act. Overlapping land rights and insecure tenure presents a problem for land management and leads to conflicts (KLA, 2004). The process of state building in Kenya relied on the model of a nation-state, which ignored the ethnicity of different groups, as opposed to pluri-ethnic and multicultural state that recognizes and accommodates cultural and ethnic difference to build equality in diversity (Maybury-Lewis, 2002). The limits of the nation-state are quite visible in the ways land issues have been managed by the state in Kenya and in most post-colonial states. By national policies and institutions have ignored the land claims of different ethnic groups, they have not been neutral or contributed to solve inter-ethnic conflicts. On the contrary, the destruction of indigenous land tenure systems and the successive relocation of different ethnic groups have fueled inter-ethnic land conflicts. Ethnic belonging in Kenya was further bolstered by historical memories of injustices and violence. The colonial government gave White settlers control of the most productive lands taken from indigenous groups that had called those territories their home. After Independence these lands were not returned to their ancestral users (Okoth–Ogendo, 1991). The Kenyan constitution drafted during the Lancaster conference in London in which Kenyan leaders participated, legalized the individual freehold title registration system to protect the white settler property rights at the expense of customary law mechanisms of land tenure (Kenya National Land Draft Policy, 2006; Theisen, 2008; Kabukuru, 2010; Kachika, 2010). This unjust historical process has kept alive the resistance within communities and their attempts to redress historical grievances has often resulted in violence (Wimmer *et al.*, 2009; Simiyu, 2008).

Kenya, as many other developing countries is characterized by certain ethno political configurations of power that exacerbate violent conflicts (Frederiksen, 2008). While formally ignoring ethnic identities or interests, the state in Kenya has been blamed for its lack of neutrality since state institutions and politicians have played ambiguous roles in the conflict; favoring some groups over others, according to short term political interests and alliances. This inability or unwillingness to resolve grievances has been identified at the root of tensions and conflicts while its lack of neutrality has continued to incite feelings of resentment among the ethnic groups who are not represented by the state.

To try to alleviate the situation of those displaced, the government opened a settlement scheme based on a market system, biased towards those with financial means to acquire the land. The whole scheme was riddled with corruption, patronage networks and favored only certain communities, leading to rampant land grabbing. This further undermined the customary mechanisms of land tenure, while growing hardships for the majority of poor combined with rapid population growth and socio-economic insecurity increased pressure on the country's arable land (Okoth–Ogendo, 1991; Kenya Land Alliance, 2004 and 2006).

Furthermore, the global expansion of Protected Areas (PA) for conserving biodiversity has increased the area of land under legal protection in Africa since 1970 (Brockington and Scholfield, 2010; Schmidt–Soltau, 2002). Since these PA were created under a paradigm of nature protectionism that prohibits any human use of any natural resource within their borders, (Himmelfarb, 2006; Borgerhoff and Coppolillo, 2004; Chatty and Colchester, 2002), their creation has usually required the wholesale displacement of vast native populations who depended on those resources now fenced off for conservation. In order to acknowledge the extend of the land scarcity in the area, it is important to understand that Mount Elgon Forest was gazette in 1974 as part of Kenya's National System of Protected Areas.[2]

3. Mount Elgon District and Land Conflict

Mount Elgon district is located in the slopes of Mount Elgon in the Western Province of Kenya, bordering Uganda to the West. It has an estimated population of 150, 997. Most of it (95%) are Sabaot (Soy and Dorobo clans), a sub-tribe of the Kalenjin ethnic group, while the Bukusu, Teso and Kikuyo all together represent only 5% of this population. While the district has very rich volcanic soils apt for agriculture, 3/4 of the land is covered by forest, leaving only 1/4 of the land for agriculture, which is rain fed. Local livelihoods rely on subsistence agriculture, livestock, and bee-keeping for honey. Products are sold in the neighboring districts at low prices due to low demand, poor marketing strategies, spread poverty and high illiteracy rates. In this area of rich cultural heritage, traditional practices like female genital mutilation, early marriage and teen pregnancies are common. Illiteracy rates of 76% for men and 96% for women are higher than the national rates of 81.36% for males and 65.74% for females (Kenya PRSP, 2000; Kenya Population Census, 2010).

The inter-ethnic land conflict in Mount Elgon stems from a process of destruction of indigenous land tenure systems to favor White settlers, which

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[2]Protected Area-location which receive protection because of their environmental, or cultural value.

resulted in successive relocations of different ethnic groups, opening a process of competing land claims, political manipulation and corruption. Back in colonial days White settlers were given control of the fertile and rich highlands in Rift Valley, Western, and Central Provinces (named "The White Highlands" since then) displacing large groups of indigenous groups who occupied these territories. For instance, in 1932, the Colonial government moved the Sabaot from Trans Nzoia to Mount Elgon district. The establishment in 1974 of Mount Elgon forests as part of Kenya National System of Protected Areas displaced the Dorobo clan, the ancestral occupants of these forests who as hunters and gatherers strongly depended on them. Access to these forests for collecting firewood, grazing animals, gathering medicinal plants, hunting or harvesting timber was closed to the Dorobo clan and to any other local people and declared illegal, violating their rights and ignoring their needs (Neumann, 1997 and 1998); this situation forced them to overuse resources outside the park, to poach and rely on precarious settlement within the park, all of which has resulted in increasing water and soil degradation and social inequalities (Scott, 1998; Himmelfarb, 2006; Soini, 2007). The Dorobos, displaced from their ancestral home were relocated from their higher lands in Mount Elgon to the lower lands, occupied by other ethnic groups, mainly Sabaots. The Ndorobo elders petitioned to the government for more land specifically for this group. The Government yielded and hived off more forest land to this aim. However, parcels were never gazetted out of forest land therefore no title deeds were ever issued. Other groups seeing the Ndorobo benefitting also petitioned to the then President Moi for more land. This process was surrounded by controversy due to claims for huge chunks of land made by traditional leaders, in conflict with the government announcement to allocate equal sizes of land to all deserving parties.

The poorly managed procedures and corrupted practices were complicated by a general rush to the area after the forest was opened up for farming. Repeated allocations and evictions gave rise to frustrations and dissatisfaction. To meet people's demand for farming land, a committee of elders co-opted by the Government authorities organized land distribution operation, but rivalries between two clans: the Soy (Sabaot) and the Ndorobo arose later over ownership of this expansive land pitying (Himmelfarb, 2006; Soini, 2007; KLA and Hakijamii Trust, 2006). In this situation of competing claims over land, local and national politicians use some part of the Mount Elgon Protected Area to distribute land among landless squatters, many of whom had not legitimate claims based on ancestral clan territories. A process of endless petitions and counter-petitions, allocations and annulments of previous allocations and evictions led to increasing tensions (Kenya Land Alliance, 2004 and 2006; Okoth–Ogendo, 1991).

In this context a dreaded militia called the Sabaot Land Defense Force (SLDF) emerged in 2005, spreading violence and signaling the collapse of the state authority. The SLDF was formed initially for resisting the Kenyan government attempt to evict Sabaots from the Chebyuk settlement in Mount Elgon district. As the conflicts evolved, the SLDF become more and more violent. The SLDF targeted first the provincial administration (chiefs, district officers, land surveyors, elders vetting the applicants for land allocations). The defiance by the SLDF was extended to elected representatives like members of the parliament and councilors (Lafargue, 2008). However, the violence did not remain limited to the provincial or state administration and spread across communities along ethnic lines, escalating as the victims or their relatives retaliated or sought justice leading to a situation that was beyond control.

The SLDF has been charged with torturing men, raping women, force recruitment of young women and girls to perform as sex slaves, to cook, and attend domestic chores for the troops; boys and young men were also forcedly recruited forced to kill their own kinsmen; the SLDF used to cut the ears or lips of those adults who opposed or resisted them. SLDF militia kidnapped and killed up to five people in a day. "If they targeted a home they took every members of that family irrespective of age and sex", said a rape victim interviewed. The militia also extorted fines from people, chopping off the ears of those who had no money while those who resisted had their heads chopped off and their bodies thrown in pits.

In the midst of this violence is when the Kenya's government deploys the military to disarm the groups and restore peace and order. However, the indiscriminate and brutal repression restored some forced order but not peace. Local residents denounced gross violations of human rights to the media and to Human Rights organizations, such as torture, rape, castration and inhuman conditions during pre-trial detention (Simiyu, 2008). It seems now that the military intervention to control the conflict inflicted additional and unnecessary damage to a population of civilians already traumatized. The heavy handed methods used by the military were justified by their argument that the local population supported the SLDF, something that was not true since local residents were divided by ethnic and political lines.

Inter-ethnic conflicts related to land grievances and demographic growth result from cumulative mismanagement of land tenure issues that destroyed indigenous land tenure systems and set in motion a system of ethnic competition over land aggravated by the corrupted political system that used land to reward political loyalties. Yet other factors largely ignored that have contributed to the tensions in the area include a history of violence and "militianization" due to the availability of small arms and light weapons

(SALW), economic stagnation of the local economy, and declining state presence in the region (Simiyu, 2008).

Besides loss of lives, rape and other forms of torture, massive displacements of local people occurred (internally displaced persons or IDPs). The conflict seriously hampered agricultural activity since farmers moved away from their fields, posing long term risks for the community's food security. Education and health sectors were also compromised by the larger scale displacement of professionals. Despite the spread of violence during the conflict, men and women were affected differently by it due to pre-existing gender hierarchies and ideologies.

4. GSBV and the Gender Dimensions of the Violence and Conflict in Mount Elgon

GSBV has been unfortunately part of war and conflict since ancient times. But with war and conflicts moving away from traditional warfare, more and more civilians are becoming victims of violence in general and of GSBV in particular. While GSBV is not limited to war and conflict it certainly escalates during conflicts. One of the ways in which men and women experience GSBV differently is that while men experience some GSBV during conflicts only, as was the case of Mount Elgon, women continue to experience GSBV after the conflict, either while in the camps (IDPCs) or more often within their own households when GSBV shift from the public to private sphere. This shift occurs because there are pre-existing patriarchal hierarchies that reinforce male supremacy and women subordination and gender ideologies that justify abuse and violence against women.

As we stated at the beginning of this paper, GSBV is not limited to women since men also were targeted for GSBV during the Mount Elgon conflict. However, men and women experienced differently GSBV during the conflict and after the conflict, which reflects the gender hierarchies and ideologies prevalent in this area, which are also hegemonic within the institutions that carried the post-conflict interventions. We will present the main differences based on the observations, testimonies and sources collected by Kimkung (2011):

(1) Gender systems established pre-existing inequalities and differential vulnerabilities for men and women, boys and girls. For instance boys were targeted as forced recruits for the SLDF while girls were targeted by this militia for rape and sexual/domestic slavery. This follows traditional gender roles where men are warriors, and women take care of the domestic chores and also are sexually subordinated to men. Another example, related to gender roles is that men had more mobility as compared to women, who were in care of several children and elders. This lesser

mobility made them easier targets for the militia when entering their village. On the other hand, women had to leave home alone for fetching water or firewood becoming easy targets for the militia. Most importantly, these gender hierarchies and the subordinated role of women prevent them from denouncing the abuse or assault in fear of retaliation, and the authorities and institutions leading the post-conflict interventions share patriarchal ideologies.

(2) While men were also targeted for GSBV, these attacks were more targeted to young adult men who were tortured, castrated or raped. Reports estimated that approximately 600 cases of male castration were documented as part of the conflict in Mount Elgon, crimes committed both by the SLDF militia and by the military deployed to stop the violence. On the other hand, women of all ages were targeted for rape, from little girls to elderly women. Other crimes included killing a fetus in their mother's womb. There is no exact data on how many cases of female or male rape occurred during the conflict, due to the fact that perpetrators were still around and victims were afraid of the reprisals, not to mention the shame and trauma associated with the attacks. However, there is strong agreement on the wide spread nature of this crime, which many times was committed in public or in front of the males relatives, to accentuate their humiliation. It goes without saying that crimes like castration against men also affect their wives and relatives, the same way female rape and/or mutilation affect their husbands and relatives. However, gender and cultural norms shaped a different behavior for men and women in terms of the support they could receive from partners, relatives and clan. Gender norms strongly attached shame and stigma to the women who have been victimized through rape and other forms of GSBV, as we will present in the next sections.

(3) While men suffer GSBV only during the conflict and in the hands of their enemies or the military, women suffer GSBV not only during the conflict but after the conflict as well and their perpetrators include not only strangers (the militia, the military and even the guards in the camps-IDPCs) but their own husbands, when GSBV shifted from the public to the private arena. Many factors explain the prevalence of domestic violence against women after the conflict, including forms of GSBV. Male identity in terms of their masculinity had been strongly affected, either directly as a result of castration or rape or indirectly when unable to defend their family, property or clan against the SLDF or the militia. Men target their frustration against women, who had to experience GSBV at home after all they had to go through. Gender ideologies that justify subordination of women explain the prevalence of domestic violence before the conflict and why it became so prevalent after the conflict.

(4) While GSBV seriously challenged the masculinity of those individual men affected, it did not challenge the patriarchal hierarchies that keep women and girls subordinated. Furthermore, men resorted to violence to enforce gender roles, precisely at times when their masculinity was more threatened. As we will see, this reinforcement of patriarchal systems is an important element preventing post-conflict situations from providing a nurturing environment for women to heal their wounds.

(5) The consequences of GSBV for women had been devastating. In addition to their individual and collective traumas experienced, they usually became pregnant and infected from sexually-transmitted-diseases like HIV; not only were they carrying a baby from their rapist but they and their babies had become deadly infected. In such desperate situations, women who needed moral, economic, medical, and psychological support found themselves stigmatized and isolated within their families, kin, and clans. No public support was made available to take care of the specific needs of female victims of GSBV. This is a case when biological differences become differential vulnerabilities due to gender systems that undervalue women well-being and rights over male pride and a traditional sense of honor for him, the kin or clan.

Unfortunately the different ways men and women experience GSBV and the conflicts usually remain undetected and therefore not incorporated into post-conflict interventions. Obviously, ignoring the specific needs of women as shaped by the conflict does not generate an intervention that is conducive to foster or facilitate the participation of women in the peace building process. Without their participation this process will not learn about their specific needs and will not be able to address them. This way the cycle of violence and subordination continues for women after the conflict and the possibility to address the root problems that led to the conflict and to the spread of GSBV.

The intense use of GSBV as a weapon of war is not exclusive to Mount Elgon land conflict. While it is broadly used by the military to intimidate or demoralize enemies or their alleged local support, it has become more prevalent during conflicts involving some form of ethnic conflict. The role of rape and sexual violence for destabilizing certain ethnic populations, destroying bonds within their communities, lineages and kinship structures or for ethnic cleansing have been clearly addressed. There are several reports on the wide spread of atrocities women of all ages have endured during the last 30 years of conflict related to ethnic conflict, from Bosnia and Herzegovina, to Rwanda or Sierra Leona (Amowitz *et al.*, 2002; Brouwer, 2005; Byrne, 1996; El Jack, 2003; Enloe, 1993; Ertük, 2008; Foster-Towne and Sutherland, 2010; Gerecke, 2009; Hagan *et al.*, 2009; IRIN, 2005; Marsh and Ward, 2006; Naimark, 1995; Turshen, 2001; UNFPA, 2006; Valchova and Biason, 2005;

Wakabi, 2008, and Wood, 2009; Kimkung, 2011), to the point of comprising a crime against humanity under international law like in the case of massive rape of Bosnian Muslim women (UNSC, 1994) or comprising a case of genocide like in the case of the massive rape of Tutsi or moderate Hutu women in Rwanda (Gallimore, 2008).

5. The Abysm Between the International Frameworks Against GSBV and The Practice

Widespread GSBV and its negative impact on peace building and conflict resolution, development and gender equity have been recognized by the global community and led to several international agreements and declarations (UNFPA, 2006). Kenya is signatory to a number of international statutes and conventions, which binds the country to implement their provisions and fulfill its obligations; for instance the obligation to implement international humanitarian and human rights laws that protect the rights of women and girls during and after conflicts. However, the conflict in Mount Elgon shows a clear violation of these international regulations many crimes against the humanity, such as murder, torture, rape, castration, sexual slavery, and forced prostitution were perpetrated and remain unpunished.

While the Universal Declaration of Human Rights adopted in 1948 includes the right to be protected against discrimination based on sex, the problem of gender and sexual violence in conflict was not addressed until recently. Some protocols to the Geneva Convention were added and the UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) was approved in 1979. The Rome Statute of the International Criminal Court, approved in 1998, for the first time declared that "rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and other forms of sexual violence of comparative gravity" are considered "war crimes" and "crimes against humanity" if knowingly committed as part of a widespread or systematic attack on civilian population (IRIN, 2012). The codification of these acts as criminal acts has allowed ICC to open investigation on several cases where these crimes have been committed and remain unpunished. The UN Security Council Resolution 1325, adopted in 2000, calls all parties involved in armed conflict to take special provisions to protect women and girls from GSBV, especially rape and other forms of sexual abuse, and from other forms of general violence during conflicts. This resolution has allowed: 1) a process of follow-up and reporting on the state of implementation of this resolution in conflict and post-conflict situations and 2) the development of strict Codes of Conduct for UN staff including peacekeepers on GSBV, where actions against perpetrators has been taken (UNFPA, 2006).

The widespread of GSBV during the Mt. Elgon conflict and during the post-election violence that was the immediate political context for these events, show the lack of neutrality of institutions like the state. Institutions have also failed to protect their citizens from violence and offer mechanisms to solve conflicts in consensual and peaceful ways. State institutions have been also unable to properly manage the post-conflict phase in terms of ensuring the safety of the victims (many of them experienced further GSBV in the hands of camps' guards) or to investigate and charge those responsible for these crimes. The need to strengthen mechanisms to address GSBV and the accountability of those institutions involved in the conflict and conflict resolution is an important component of building up transitional justice[3] and to carry a reform of the security sector[4] to make sure the episodes of violence in general and GSBV in particular will not occur again (Barr, 2011). For the case of Kenya, the creation of The Truth, Justice and Reconciliation Commission of Kenya (TJRC) is the paramount step to build up transitional justice in Kenya –in regard not only to the Mt. Elgon conflict but the post-election violence that spread throughout the country.

The Truth, Justice and Reconciliation Commission of Kenya (TJRC) is part of the accountability component of Agenda Four (4) of the National Accord signed in 2008 after the 2007 Post-Election Violence. Since the Mount Elgon conflict is part of this phenomenon of national violence, the TJRC roles include the investigation of Mt. Elgon violence and crimes. The overarching goals of the TJRC is to address the cause and effects of historical injustices and gross violations of human rights the TJRC aims to contribute towards national unity, reconciliation, and healing; to document thoroughly human rights violations and historical injustices, to implement criminal, restorative and social justice, to build peace and national unity by facilitating a process of healing and reconciliation, and restoration of the human dignity of victims and perpetrators (http://www.tjrckenya.org). By 2012 most of the local and regional hearings –including the Mt. Elgon Roundups, have been conducted.[5]

Even though there were doubts about its mandate and its independence from the Kenyan Government –involved through the crimes committed by

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[3] Transitional justice includes "the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation" (UN 2004, cited in Barr, 2011) where in addition to prosecuting criminal abuses there is an important element of healing and reconciliation, providing an opportunity for the victims to voice their traumatic experience and to receive a public apology and/or reparation.

[4] Reform of the Security Reform refers to "the transformation of the 'security system' –which includes all the actors, their roles, responsibilities and actions-working together to manage and operate the system in a manner that is more consistent with democratic norms and sounds principles of good governance, and thus contributes to a well-functioning security framework." (OECD-DAC, 2005 cited in Barr, 2011).

[5] A video on the Mt. Elgon roundup is available at http://www.tjrckenya.org/index.php?option= com_content&view=article&id=288: mt-elgon-region-roundups&catid=73:tjrc-roundups&Itemid=165.

the military deployed to Mount Elgon, the TJRC has an important role to play in terms of charge those responsible for the crimes and by allowing a public acknowledgement of the events, a dialogue of the root causes and forgiveness once justice has been served, to provide some elements of long-lasting conflict resolution and peace-building. In this regard the TJRC is driving the transitional justice agenda in Kenya. However, even though the GSBV and crimes committed against men and women in Mount Elgon clearly fit the definition of crimes stipulated in The Rome Statute, the perpetrators of those crimes have never been charged of any crime by the Kenyan government or referred to the ICC at The Hague. The victims have been left to seek for justice on their own. With support from groups from the civil society victims are suing the Kenya Government for crimes against humanity at the East African Court of Justice.

There are several reasons to explain the gap between the provisions stipulated by international instruments against GSBV and the way interventions ignored or violate those agreements. Without being exhaustive, we want to highlight some of these factors. First, the lack of neutrality of the Kenya Government and its inability to solve the conflict without resorting to the same type of violence it was supposed to prevent and or suppress; second, the hegemonic patriarchal ideologies permeating the state, local institutions including households and clans; third, the particularistic interests of politicians who have been manipulating land tenure issues and inter-ethnic conflicts and who did not had real interest in solving the land conflict issues in Mount Elgon in fair terms, especially to benefit the ethnic groups that have been alienated and dispossessed before and after Independence. In regard to GSBV, the prevailing gender ideologies are important to explain not only the wide spread of GSBV but the uneven way men and women experienced violence in general and GSBV in particular. Because of these patriarchal ideologies, women experience GSBV and their traumatic long-term consequences without any support from their families, communities or the state.

While more specific and stronger mechanisms addressing SGBV and human rights are required for institutions leading post-conflict interventions (including guidelines and staff training) we cannot ignore the patriarchal bias of most institutions. Therefore, while a whole mainstreaming process to make these institutions gender-sensitive is required, to avoid the bureaucratization of this process, there is a need to support the building of human rights and women grassroots organizations, and to keep their mobilization strong and alive in order to exert political pressure for the government and these institutions to take gender and GSBV seriously.

There are some important guidelines for actions to be taken to address the structural roots of GSBV and the special vulnerability of women due to patriarchal ideologies. For instance, the specific recommendations made by

the Working Group on Women and Children in an Insecure World established by the Geneva Centre for the Democratic Control of Armed Forces (DCAF) in 2005, or the 2005 Joint Consortium of Irish Human Rights Humanitarian and Development Agencies and Development Cooperation Ireland or the guidelines issued in 2005 by a task force of the United Nations Inter-Agency Standing Committee (IASC) provide detailed recommendations for the minimum response required to address sexual violence in emergencies and hold all humanitarian actors responsible for tackling the issue in their respective areas of operation (IRIN, 2012). There has been an increase in research and documenting GSBV, and important progress setting up international standards and mechanisms to increase accountability and to guide interventions. All these are an important pressures from above and the donor and international community in general has an important role to play exerting pressure from above. However, we cannot forget two important social features that need to be transformed to eliminate GSBV: first, the elitist and anti-democratic nature of post-colonial states unable to equally and fairly represent and protect all citizens, accommodating ethnic and gender differences instead of making them a base for discrimination; second, the patriarchal nature of private and public institutions dominated by patriarchal ideologies that justify women's subordination and different forms of violence against them.

Transforming these characteristics requires a process of mobilization and organization that cannot be done from above but from the bottom. Therefore, a priority for development interventions should be to build up local and national women grassroots organization and to use any intervention on health, education or farming to empower women to question patriarchal ideologies and ethnic supremacies. Differences exist and need to be addressed to overcome ideologies that justify violence on the base of gender or ethnicity. The fight to overcome patriarchal hierarchies cannot be divorced from the process of building pluri-cultural and multiethnic states that can represent, arbitrate and protect all citizens and set up a process of fair access to natural and economic resources as a base for sustainable development. What we learn from the GSBV in Mount Elgon is that it reveals that structural political roots, as much as cultural and gender hegemonies, need to be transformed.

References

Amowitz, L., C. Reis and K. Hare Lyons, *et al.* 2002. "Prevalence of War-Related Sexual Violence and Other Human Rights Abuses Among Internally Displaced Persons in Sierra Leone." *Journal of the American Medical Association*, 287: 513–521.

Barr, C. 2011. "Making Connections: Bridging Transitional Justice and Security Sector Reform to Confront Conflict-Related Sexual and Gender-Based Violence." *The Fletcher Journal of Human Security*, 26: 5–23.

Brockington, D. and K. Scholfield. 2010. "Conservation NGOs and the Conservationist Mode of Production in Sub-Saharan Africa." *Antipode*, 42(3): 551–575.

Brouwer, A. 2005. "Supranatural Criminal Prosecution of Sexual Violence: The ICC and the Practice of the ICTY and the ICTR." Thesis. Antwerp: Intersentia University. Unpublished.

Borgerhoff, M. and P. Coppolilo. 2004. *Conservation: Linking Ecology, Economics, and Culture*. Princeton University Press.

Byrne, B. 1996. "Gender, Conflict and Development." BRIDGE Report 34: Volume 1. Brighton, UK: BRIDGE /Institute of Development Studies, University of Sussex.

Chatty, D. and M. Colchester. (Eds). 2002. *Conservation and Mobile Indigenous Peoples: Displacement, Forced Settlement and Sustainable Development*. Oxford, New York: Berghahn Books.

El Jack, A. 2003. "Gender and Armed Conflict: Overview Report." Brighton, UK: BRIDGE /Institute of Development Studies, University of Sussex.

Enloe, C. 1993. *The Morning After: Sexual Politics at the End of the Cold War*. Berkley: University of California Press.

Ertük, Y. 2008. "Report of the Special Rapporteur on Violence Against Women, its causes and Consequences. Addendum." *Mission to the Democratic Republic of Congo, Human Rights Council 7th Session*, Agenda Item 3,A/HRC/7/6/Add.4.28. February.

Foster-Towne, C. and C. Sutherland. 2010. "Sexual Violence As A Weapon of War: Political Rape and the Zimbabwe Crisis." Consultancy Africa Intelligence. April 15. Available at: http://www.consultancyafrica.com/index.php?option=com content&view=article&id=382:sexual-violence-as-a-weapon-of-war-political-rape-and-the-zimbabwean-crisis&catid=59:gender-issues-discussion-papers&Itemid=267.

Final Act of the 1974–77 Diplomatic Conference. 1977. Resolutions of the 1974–77 Diplomatic Conference. Extracts from the Geneva Convention, 1949. Violence against women in armed conflict: A fact sheet of the Protocols Additional To the Geneva Conventions of 12August 1949. Geneva: International Committee of the Red Cross.

Frederiksen, E. 2008. "Reconstructing Political Community: Truth Commissions, Restorative Justice and the Challenges of Democratic Transition." Paper presented at the Canadian Political Science Association, Vancouver, June 2008.

Gallimore, R. B. 2008. "Militarism, Ethnicity, and Sexual Violence in the Rwandan Genocide." *Feminist Africa,* 10: 9–29.

Gerecke, M. 2009. "*Explaining sexual violence in conflict situations*: Preliminary findings from Bosnia and Herzegovina, Rwanda and Sierra Leone" Paper presented at the 50th Annual Meeting of the ISA Exploring the Past, Anticipating the Future. New York, NY.

Hagan, J., W. Rymond-Richmond and A. Palloni. 2009. "Racial Targeting of Sexual Violence in Darfur Journal." *American Journal of Public Health*, 99(8): 1386–1392.

Himmelfarb, D. 2006. "Moving People, Moving Boundaries: The Socio-Economic Effects of Protectionist Conservation, Involuntary Resettlement and Tenure Insecurity on the Edge of Mt. Elgon National Park, Uganda." Agroforestry in Landscape Mosaics Working Paper Series. World Agroforestry Centre, Tropical Resources Institute of Yale University, and The University of Georgia, page 7. Please delete the links bellow since they do not belong to this article.

IRIN. 2004. "Our Bodies-Their Battle Ground:Gender-based Violence in Conflict Zones." IRIN In-Depth. 1 September. IRIN, Humanitarian News and Analysis – A service of the UN Office for the Coordination of Humanitarian Affairs. Available at: http://www.irinnews.org/IndepthMain.aspx?IndepthId=20&ReportId =62814.

IRIN. 2012. Gender-based Violence in Conflict Zones. Brief retrieve by Jan 19 2012 from IRIN, The humanitarian news and analysis service of the UN Office for the Coordination of Humanitarian Affairs. Available at: http://news.irinnews.org/ InDepthMain.aspx?InDepthId=20&ReportId=62814.

Kabukuru, W. 2010. "Kenya finally lands a land policy: after 46 years of waiting, Kenya has finally got it right. Or has it?" Article published by *New African*, and retrieved from Highbeam Business on-line Magazine, available at: http://business. highbeam.com/165610/article-1G1-218191193/kenya-finally-lands-land-policy- after-46-years-waiting. January 1.

Kachika, T. 2010. *Land Grabbing in Africa: A Review of the Impacts and the Possible Policy Responses*. Oxford, UK: Oxfam International.

Kenya Government. 2000. Kenya Poverty Reduction Strategy Paper (PRSP). Nairobi.

Kenya Government. 2010. Kenya Population Census. Nairobi.

Kenya Land Alliance (KLA). 2004. The Land Policy in Kenya: Addressing Historical Injustices. Issues Paper No. 02–2004. Kenya: KLA, Nakuru. Available at: www. caledonia.org.uk/land/documents/kla issues paper.pdf.

KLA and Hakijamii Trust. 2006. Policy Brief. Public Land Tenure and Management of Public Land in Kenya. Available at: http://www.scribd **Kenya Ministry of Lands.**.com/doc/3107643/Kenya-Land-Alliance-Public-land-policy-briefing.

Kimkung, P. 2011. "The Gendered Effects of the Inter-ethnic Land Conflicts: The Land Conflict in Mount Elgon in Western Province, Kenya." Masters in Sustainable International Development Paper. The Heller School for Social Policy, Brandeis University.

Lafargue, J. 2008. "The General Elections in Kenya." *Les Cahiers d'Afrique L'est* No.38. Institut Francais de Rechereche en Afrique. IFRA: Dar-es-Salaam, Nairobi.

Marsh, M. and J. Ward. 2006. *Sexual Violence against Women and Girls in War and Its Aftermath: Realities, Responses and Required Resources*. UNFPA.

Maybury-Lewis, D. 2002. *Indigenous Peoples, Ethnic Groups and the State*. Boston: Allyn & Bacon.

Moser, C. and F. Clark. (Eds). 2001. *Victims, Perpetrators or Actors? Gender, Armed Conflict and Political Violence*. London: Zed Press.

Naimark, N. 1995. *The Russians in Germany: A History of the Soviet Zone of Occupation 1945–1949*, 69- 140. Boston: Belknap Press. Harvard University Press.

Neumann, R. P. 1997. "Primitive Ideas: Protected Area Buffer Zones and the Politics of Land in Africa. " *Development and Change*, 28: 559–582.

———. 1998. *Imposing Wilderness. Struggles over Livelihood and Nature Preservation in Africa*. Berkeley: University of California Press.

Okoth–Ogendo, H. 1991. *Tenants of the Crown: Evolution of Agrarian Law and institutions in Kenya*. ACTS Press: Nairobi.

Schmidt-Soltau, B. 2002. "Displaced by Conservation." International Symposium on Resettlement and Social Development at Hohai University, Nanjing P.R China. May 12–14.

Schmidt-Soltau, B. and D. Brockington. 2009. "Poverty and Parks: A Global Assessment of the Social Impact of Protected Areas." Paper presented at IUCN World Conservation Conference, Bangkok.

Scott, P. 1998. *From conflict to Collaboration: People and Forests at Mt. Elgon, Uganda*. IUCN: Gland, Switzerland and Cambridge, UK.

Sharlach, L. 2000. "Rape As Genocide: Bangladesh, the former Yugoslavia and Rwanda." *New Political Science*, 22(1): 88–102.

Simiyu, R. R. 2008. *Militianisation of Resources Conflicts: The Case of Land Based Conflict in The Mount Elgon Region of Western Kenya*. ISS Monograph No. 152, Institute for Security Studies, Pretoria.

Soini, E. 2007. *Land Tenure and Land Management the districts around Mount Elgon: An Assessment presented to Mount Elgon Regional Ecosystem Conservational Program (MERECP)*. ICRAF Working Paper No. 49. Nairobi, Kenya: World Agroforestry Center.

Theisen, M. O. 2008. "Blood and Soil? Resource Scarcity and Internal Armed Conflict Revisited" *Journal of Peace Research,* 45(6): 801–818.

Turshen, M. 2001. "The Political Economy of Rape: An Analysis of Systematic Rape and Sexual Abuse of women during Armed Conflict in Africa." In *Victims and Perpetrators or Actors? Gender, Armed Conflict and Political Violence.*, eds. C. Moser and F. Clark. London: Zed Books.

Turshen, M. *et al.* (eds.). 1998. *What Women Do in Wartime. Gender and Conflict in Africa*. London: Zed Books.

United Nations Security Council. 1994: "Rape and Sexual Assault. Final Report of the United Nations Commission of Experts Established pursuant to Security Council Resolution 780 (1992), S/1994/674/Add.2 Vol. V. Annex IX.I.C." New York: United Nations.

United Nations Population Fund (UNFPA). 2006. "Sexual Violence against women and girls in war and its aftermath: realities, responses and required resources." A briefing paper prepared by Jeanne Ward and Mendy Marsh for *Symposium on Sexual Violence in Conflict and Beyond*. June 21–23. Brussels.

Valchova, M. and L. Biason. (eds.) 2005. *Women in an Insecure World: Violence against Women. Facts, Figures and Analysis*. **Geneva: Centre for** the Democratic Control of Armed Forces (DCAF).

Wakabi, W. 2008. "Sexual Violence increasing in the Democratic Republic of Congo." *The Lancet*, 371(9606): 15–16.

Wimmer, A., C. Lars-Erik and M. Brian. 2009. "Ethnic Politics and Armed Conflict: A Configurational Analysis of a New Global Data Set." *American Sociological Review*, 7l: 316–337.

Wood, E. J. 2009. "Armed Groups and Sexual Violence. When is Wartime Rape Rare." *Politics and Society Journal*, 37(1): 131–162.