

Kenya

The information below is based on the Truth, Justice and Reconciliation Commission [Kenya], Final Report (2013) , Volume IIA, Chapter Six, issued on 3 May 2013¹

Reporting of Cases on Sexual Violations

19. The Commission came face to face with the reality of the extent to which cases of sexual violations have continued to be unreported. It is very likely that the number of statements on sexual violence received, as indicated above, may be but a minute fraction of the actual number that occurred. Many accounts of rape and other sexual violence marked the first time that the victims were narrating their experiences. While a number of women chose to give their testimonies *in camera*, many more women chose to talk freely in the women's public hearings. A few spoke openly at the public hearings. Men on the other hand chose to speak *in camera* only. While some men actually testified about their ordeal with sodomy, many more women spoke about the sexual violence that their sons or husbands went through, reinforcing the existing view that sexually violated men find it extremely stigmatising to report and talk about the violations.²

22. Many victims suffered trauma, impeding their ability to talk about their experience. There were cases of women who never spoke for days after being violated.³ While counselling enabled some victims to speak about the harrowing experiences they had undergone, for others no amount of counselling would help. A Kenyan refugee testified that he neither reported that he was sodomised nor sought treatment because he was ashamed to do so, remarking:

Yes, I would wish to, but I am also scared because it is something that happened secretly. For such a thing, men are embarrassed to reveal it in public.⁴

40. A witness shared with the Commission how her casual labour/gardener, on two occasions (2003 and in 2009), sodomised her mentally ill son.

41. According to the GVRC, there are increasing victims of sexual violence who are children. Whereas between 2001 and 2005, the centre received a total of 1,019 cases involving children, in 2010-2011, it recorded 1,437 cases.⁵ The violence is directed at both boys and girls. However, girls comprise the majority of victims, as evidenced by cases documented between October and December 2011, where out of a total of 324 incidents that involved children, 279 were violations against girls.

47. Sexual violence is said to have been one of the methods employed by the colonial government to not only discipline and humiliate the dissidents, but to also instil fear in would-be dissidents. As the colonizers clamped down on the Mau Mau movement, thousands of men and women were arrested and sent to detention camps. At one time, the detention camps held more than 70,000 detainees⁶. The Commission heard of both men and women being tortured,

¹ Full text available [here](#)

²TJRC/Hansard/ In-Camera Hearing/Kiryandongo/ 1November 2011/p.11.

³TJRC/Hansard/Women's Hearing/Kisumu/16 July 2011/p. 5.

⁴TJRC/Hansard/In-Camera Hearing/Men/Kiryandongo/2 November 2011/ p. 6; TJRC/Statement/00578.

⁵See generally TJRC/Hansard/Thematic Hearing/Women/08 February 2012/p. 25-30.

⁶Anderson D Histories of the hanged (2005) 313.

with men being castrated and women raped to confess of their alleged membership to Mau Mau. In probably the first recorded use of sexual violence in Kenya as a tool of suppression and repression, Josiah Mwangi Kariuki in his autobiography wrote that:

There are evidences of castration of those suspected of being Mau Mau by screeners at Kwanyangwethu; while these things were done by Africans. The white men knew and approved of what was going on.⁷

48. Nduku Mutua, one of five litigants who have sued the British government over torture, sexual violations, detention without trial and other abuses committed during the colonial period, recalls:

After 50 years it is time for justice. I was castrated and tortured by British prison guards. I was robbed of my dignity and of a family and those scars have never healed. This wrong must be recognised, I and many others deserve an apology and justice at long last.⁸

53. The Commission heard of cases where men would be physically assaulted and their women sexually violated before the bandits made away with livestock. A witness stated how he was attacked by *Shiftas* (bandits) who robbed him of his day's earnings from his shop, assaulted him and abducted his wife. He testified that the bandits raped his wife for over an hour before they released her.⁹ Men were not spared. A witness reported how raiders stripped him naked and proceeded to sodomise him in front of his wife and children. Though he sought treatment, he later succumbed to the injuries.¹⁰ Ms Adukan Raphaela, while testifying about the suffering that members of her community (the Rendile), have endured narrated:

They [raiders] have been attacking us and mutilating people. We have evidence of boys whose private parts were mutilated, and many women who are widowed by the same people. So, we are suffering in the hands of the Turkana. The Gabbra too attacked a village and killed almost 60 people in the recent past.¹¹

55. Witnesses accused SSAs of harassing the locals in the name of obtaining intelligence on previous attacks and disarming communities. They accused the SSAs of targeting communities perceived to be hostile and administering collective punishment, especially through confiscation of livestock - their only source of livelihood - as a means of pushing the residents into surrendering guns that the military officers believed they held.¹² Witnesses confirmed that the SSAs committed sexual violence on both men and women in the areas that they were deployed during those security operations. One narrated how the military officers carrying out a security operation in the area brutally raped his wife and took off with his 60 cattle¹³

In October 1979, during the disarmament exercise, the GSU came to my home and met me in my house. One of them told me to give out guns; I told him I didn't have. Immediately I was kicked and the others stepped on my chest and they started beating me randomly until I vomited blood and finally, I was castrated.¹⁴

⁷J.M Kariuki Mau Mau Detainee (2009) 34.

⁸Kenya Human Rights Commission 'Surviving after torture: a case digest on the struggle for justice by torture survivors in Kenya (2009) 17.

⁹TJRC/Statement/30177.

¹⁰TJRC/Statement/30186.

¹¹TJRC/Hansard/Public Hearing/Rumuruti/15 November 2011/p.4.

¹²TJRC/Statement/04856.

¹³TJRC/Statement/04360.

¹⁴TJRC/Statement/00413/p.8; TJRC/Statement/05774.

56. A witness from Samburu East testified how, following the kidnapping of two boys from her Samburu community by raiders from another community, Samburu men set out to rescue the boy. Two police officers are said to have been killed around the same time under unknown circumstances. Immediately, SSAs were deployed in the area and they landed using helicopters. When the Samburu men approached the security officers, thinking that they were bringing back the kidnapped children, they were shot dead. The SSAs then embarked on a community punishment of the residents during which they confiscated over 6 000 head of cattle, injured many people, raped hundreds of women and castrated boys.¹⁵

58. From Garissa, through Wajir and to Moyale, there was a common narrative involving sexual violence by the SSAs deployed to the areas to suppress Shifta activities in the region. Women and men were sexually tortured to humiliate, intimidate and coerce them and to extract information from them. Many people died following the brutal attacks, while others lived with permanent scars that are a constant reminder of the violations they experienced.

62. [...] A witness from Arabia testified before the Commission that¹⁶:

[...] After beatings, torture, and rapes, no medication was given to people. Men's testicles were squeezed. They were tied with ropes meant to clean rifles, many died. Women's breasts were tied with rubber bands.

76. Men were also targeted. A witness testified how her husband was executed, his body dismembered and his genitals chopped off.¹⁷

79. Men also testified to being sexually violated, some of which took place in the context of other violations, including torture and assault as the SSAs sought to obtain information that would enable them arrest the members of the SLDF. One man recalled:

On 20 June 2008, I met some army men at Chesikaki. They grabbed me and started to beat me up as they stepped on me and slapped me. They took my ID card and looked at it and when they saw that I was from Chwele, they stopped beating me. They asked me where the militia could be found. They had kicked me hard on my genitals and I doubt whether I can ever procreate.¹⁸

80. Men were also sodomised and evidence emerging from witness testimonies reveals a picture of coordinated sodomy committed on men of all ages, by both the militias and the government security forces, when men refused to cooperate or when they refused to confess to false allegations. The majority of the individuals who reported male sodomy were women talking on behalf of their relatives and acquaintances. Indeed, very few men came forward to report sodomy on their person. MNM, a female, informed the Commission that while detained in the police cells, she saw men being sodomised by the police. She said:

They told an 80-year-old man [to bend down]. The old man bent down, and they started to sodomise him. The sodomising went on the whole night. In the morning, at 10.00am he was left for 15 minutes. before the ordeal continued again. Another one was

¹⁵TJRC/Hansard/Women's Hearing/Rumuruti/15 November 2011/p.7.

¹⁶TJRC/Hansard/ Public Hearing/ Mandera/25 April 2011/p. 25-27.

¹⁷TJRC/ Hansard/Women's Hearing/ Mt. Elgon/24 May 2011/p.3.

¹⁸IMLU Double Tragedy: Report on Medico-Legal documentation of torture and related violations in Mt Elgon: Operation Okoa Maisha (2008)
12.

mistreated [sodomized] in a similar way.¹⁹

84. Indeed, data received by the Commission through interviews, statements and oral submissions revealed clear patterns of consistent and widespread sexual violence targeting women and men during the electioneering period as well as during ethnically and politically-instigated conflict that have over time characterised Kenya's elections. Of the total 1 104 statements received by the Commission in regard to sexual violence, nearly a quarter (255) was committed in the context of political/ethnic clashes.

94. Initially, women were targeted for sexual violence but as their testimonies indicated, men and boys were also sexually violated, although very few came forward to report. A witness narrated how he was sexually violated and told the story of a woman she knew who too was sexually violated in his presence:

When we were registering as voters, we heard rumours that we were supposed to go back to Nyeri: "You Kikuyu must go back to Nyeri." However, when the voting began in December, there were many things that we could not understand. We were told that our ashes would not fill a single pick up. We did not understand that. When we went home after voting, we heard that some houses had been burnt, but ours were not. Our sub-chief came to tell us that trouble had been stirred up but that none will befall us. He tried his best. We were at the boundary of two sub-locations. However, on the second day, we were surrounded. The women had run away and only men had been left behind. There were two Kikuyu families remaining. We were surrounded and attacked. They entered our homes and freed the goats and the cows. They divided the animals among themselves in my full view. I was told that I will never eat again any other day. I was told that if I ate, then it will be either in Nyeri or in heaven. They beat me up and then divided my household goods. They then torched the house. They told me to move away. My home borders a small forest. When I was there they brought me a girl who resided at my neighbour's. She had been caught while running away. She was stripped naked and so was I. They took away my Muslim *kanzu* and put it in the fire. They took away the other things. I was shocked to see them even take my underwear. They told me to move near a trench where the girl was. They took the girl and prepared her. They raped her and then they told me it was my turn to do it. I felt very sorry. I knew the girl's sister was married to my own son. I told them that I was sick with HIV/Aids. I told them that I would infect the girl and she would in turn infect them. They became furious. They beat me to the ground and told me to kneel down. The others went away. Only eight men remained and I was still stark naked. I was worried when they used me like a woman. All of them sodomized me. The one who told me that I will never eat again stepped on my forehead. The footmarks of his shoes are still on my forehead. The other one brought a mattock – (a presumed symbol of ODM). He also had a piece of metal. He started knocking down all my teeth. I was lying on my right side which had a few teeth remaining out of the 28 that I had. They knocked down all of them until I remained with only three teeth. I then lost consciousness. They thought I was dead. They dragged me and put me in a trench. I do not know what happened after that.²⁰

95. A Kenyan refugee shared with the Commission how he was attacked by a group of 18

¹⁹TJRC/ Hansard/ Women's Hearing /Bungoma/9 July 2011/p. 31.

²⁰TJRC/ Hansard/ In-Camera Hearing/Men/Naivasha/ 27th September, 2011/ p. 3-4.

youths who all sodomised him and infected him with HIV/AIDs.²¹ Men were targeted for forced circumcision and in other cases, mutilation of the genitals at the height of the 2008 PEV. Witnesses informed the Commission how angry youth attacked their spouses and mutilated their genitals, ultimately killing them.²²

98. Over the years, there have been allegations of torture being used by SSAs as a tool of interrogation in places of confinement as well as in police stations. The Commission heard that in such situations, sexual violence was employed and was aimed at extracting information from persons. In his testimony, George Walikhu Marakali narrated how he was tortured and pressurised to confess of his involvement in the FERA movement. He indicated how sexual violence was also employed in the course of the interrogation:

It [torture] went on day after day, but they did not get what they had expected of me. When it reached that level, on one occasion after beating me and taking me through the same cycle, they decided to use another technique. While naked, I was made to put my legs apart and they tied my private parts. They tied the testicles, I am not ashamed to say this because it happened and they started pulling. They said they would bring an end to my life if I was not going to say anything. As they kept pulling, I cried out and the more I cried, the more they pulled.²³

99. Mzee Jocktan Wepukhulu Mayu confirmed to have been subjected to sexual violence during his confinement at the Nyayo House torture chambers. He stated as follows:

In that chamber, I was taken for only one day and beaten thoroughly. They messed up my private parts. As I speak here, I am not a real man; I am like a child. I was asking them why they were torturing me like that. I even pleaded with them to kill me instead of torturing me.²⁴

100. Another witness stated that between 1994 and 1994, he was arrested and kept on being moved from Nyati House to Nyayo House. He shared how he was subjected to degrading treatment and torture, by both female and male interrogators drawn from the Special Branch, during the period of confinement. Here is his testimony:

The female officers tortured me. They would ask me to remove my clothes. Upon getting to my underwear, they would tell me to remove everything. I told them I could not remove my underwear because there were women officers around. They then told me that I am married and the wife is like one of them. They asked me if I was afraid of removing my clothes before my wife. I told them that I was not afraid, but they were strangers to me. They hit me with a piece of wood on my joints, forcing me to remove my underwear. They would then start torturing me. I was kicked in the chest and stomach. My private parts were burned with a cigarette butt and I have the scars to show for it. When I was kicked in the stomach, I started bleeding. I get stomach aches which lead to bleeding. I still bleed since then through the front part of my private parts. I experience the pains.²⁵

101. A witness informed the Commission of how he had been wrongly accused of participating

²¹TJRC/Hansard/In-Camera Hearings/Men/Kiryandongo/2 November 2011/p. 9.

²²TJRC/Hansard/In-Camera Hearing/Women/Kericho/ 20 September 2011/p. 4.

²³TJRC/ Hansard/ Public Hearing/ Mt Elgon/ 24 May 2011/p. 6.

²⁴TJRC/ Hansard/ Public Hearing/ Mt. Elgon/ 24 May 2011/p.20.

²⁵TJRC/Hansard/In-Camera Hearing/Men/Kiryandongo/2 November 2011/p. 2,3 and 5.

in the death of a resident in his home area, his tribulations during custody and subsequent release for lack of evidence. He stated thus:

I had gone to Kopokogh in Pokot North. When I came back to my home in Kishaunet in West Pokot, my brother Taraiat Yokomoi told me that all people who went for safari from the village [were] alleged to have killed somebody at Pkopoch near Kishaunet. Police arrested me at Makutano and took me to Kapenguria. Christopher and I (who had gone for safari) were beaten four times per day, 8am, 11am, 2pm and 4 pm, for two months. After the second month, they made us stand. They tied both our testes tightly together. They beat us until we fell down. They then pulled the rope and beat our testes with *rungus* (clubs). They released us after one week for lack of evidence.²⁶

102. Other witnesses stated of their untold suffering at the hands of police officers. One witness shared his testimony:

On 24 June 1984, at the home of the former minister Lotodo Loile, Kenyan askaris came at 7am in the morning. They shot dead William (the tractor driver) then came to me. They beat up me to near death. They knocked me with guns. They used needles to prick my testis. They inserted gun nozzles into my anus. [...]²⁷

152. Social stigma is also compounded by hostile, indifferent or grossly curious attitudes of service providers such as law enforcement authorities and health workers when victims report sexual violence. For both male and female victims, there is shame in reporting the act as they are made to feel that they are somehow to blame for what happened to them. In a society that promotes the male norm as being *macho*, male victims feel and are made to feel emasculated by sexual violence. Women on the other hand are made to feel that they were somehow complicit in what happened to them.

158. Male victims also narrated how they had been rendered impotent as a result of being sodomised or castrated.²⁸ The testimony by a witness who had been sodomised, demonstrates the indignity attached to the violation as well as the strain it had on the victims' marriages:

I need treatment to go back to my manhood. I am not very old. I last talked to my wife in 2007 and I have never dealt with her [had sexual intercourse]. Even if she comes near me, I do not have any feelings for her...What I used to give her then, I cannot give her now. I am like a cripple in my body... I have been unable to stand for about eight months because of my waist and legs. Something bad happened to me. The woman I am living with, if I cannot satisfy her, will move out and I will be left alone. I have become useless.²⁹

159. This was also the case for the victims who were castrated by the military officers during the security operations. As one witness, indicated, he could not sire children after the violation and that affected his marriage as well as their right to found a family.³⁰ Another stated as follows:

²⁶TJRC/Statement/04856.

²⁷TJRC/Statement/04860.

²⁸TJRC/Statement/00413.

²⁹TJRC/Hansard/In-Camera Hearing/Men/Naivasha/ 27 September 2011/p.4.

³⁰TJRC/Statement/04856; See also TJRC/Memo/M0118.

My family disintegrated, my wife left me. I lost self-confidence and ability to provide for my family, I do not meet or mix with my age-mates again for fear of stigma.³¹

160. Similarly, a male Kenyan refugee shared narrated the effect sexual violation has had in his life as far as entering into a relationship and founding a family, stating:

I came here [Kiryandongo] in 2008 and could not marry. I stayed until 2009 when I met a Kenyan woman whom I married. After marrying her, when she knew that I had been sodomised and had that injection, she left me. That is very painful and it still affects me. I have peace but I do not know where my life is heading to. I have never been treated since I suffered that injustice.³²

The information below is based on the Commission of Inquiry into the Post-Election Violence (CIPEV) Final Report, issued on 16 October 2008³³

CHAPTER SIX

Sexual Violence

Introduction

One of the well known and regrettable tragedies of major conflicts and breakdowns of law and order is sexual violence. This has happened around the world. Sadly enough, it also was a consequence of the 2007 post election violence in Kenya. Like others who either lived through or followed this terrible period of Kenya's history, the Commission heard anecdotally and from the media about sexual violence against both women and men. These reports, admittedly informal, included heart wrenching tales of rape, gang rape, sexual mutilation, loss of body parts, and hideous deaths. In addition, the Commission also gradually learned that the various forms of genital violence against innocent victims were not just one-off tragedies but major life-changing events. Among others, the Commission heard tales of family members being forced to stand by and witness their mothers, fathers, sisters, brothers, and little children being raped, killed, and maimed: innocent victims contracting HIV AIDS after being sexually assaulted because the breakdown of law and order and the deteriorating security situation kept them from accessing medical care soon enough to prevent it: husbands abandoning their wives who had been defiled, and the inevitable psychological burden of powerlessness and hopelessness that left individuals who had experienced sexual violence feeling alone, isolated, and unable to cope, not just for one moment in time, but possibly forever. Worse still, the Commission also heard that some individuals who had lost family members and property, and who had been chased away from the only homes they had ever known, also had experienced multiple forms of violence that included sexual violence.

[...]

Being lay people rather than specialists in the subject of sexual violence, members of the Commission understood that not only did they not have the answers to the above questions, but that they also did not know how to go about getting them. The Commission realized that while

³¹TJRC/Statement/ 04860.

³²TJRC/Hansard/In-Camera Hearing/Men/Kiryandongo/2 November 2011/p. 6.

³³ See full text [here](#)

armed with reasonable questions and good intentions, it could not embark on this inquiry alone. The Commission needed assistance from specialists who knew Kenya's social and political landscape, were familiar with the history, causes and nature of sexual violence in general, and who had worked with victims of such violence. The Commission knew that while women normally are the main victims of sexual violence when order breaks down, men too had experienced horrid types of sexual violence after the Kenyan election. These included sodomy, forced circumcision, and even mutilation of their penises. Between hearing of women who had been gang raped and mutilated, the accounts of ethnically driven sexual violence against certain men was also horrifying. Furthermore, the Commission also understood that any inquiries it might make into sexual violence would also involve interacting with victims. The Commission appreciated all the sensitivities associated with doing so, including the usual problem of finding victims who would agree to discuss what had happened to them.

[...]

Understanding that potential witnesses had suffered incalculable physical and psychological horrors from which they might never recover, the Commission arranged for private hearings, which also allowed victims to describe what had happened to them and enabled them to open up, in some cases to the point of naming their attackers. In short, the Commission and the Kenyan victims of sexual violence encountered issues similar to those faced elsewhere in the world when dealing with its aftermath. Even then, with all of the efforts to sensitize members of the Commission and provide a safe environment in which victims could testify, it was still difficult for victims to steel themselves and come forth to meet with the Commission. This accounts for the relatively small number of victims, 31 in all, who testified before the Commission or submitted statements, something the Commission understood and appreciated, but nevertheless regret given the strong belief by the Commission that the problem of sexual and gender based violence in the post election period merited more time in the Commission hearings. This not so unusual problem may also have been accentuated by the sad history of Kenya's past electoral violence and the reality that perpetrators have not only gone unpunished, but have continued afterwards as powerful political figures. That sobering reality as well as the relative powerlessness of Kenyan women in many areas of life may have made potential witnesses shy away after considering that the potential cost of their testimony far outweighed any perceived expectations that they may have had for obtaining justice.

Furthermore, some cases of sexual violence against men that took place after the 2007 elections were hitherto unheard of and new to the Commission and to Kenya. The tragic novelty of this experience meant that there were even fewer support groups available to men than to women. That, added to the humiliation of the violations meant that no male victims came forward to testify to the Commission, something the Commission understood, but nevertheless found regrettable.

Public Testimony by Expert Witnesses

The Commission received testimony from three specialists on sexually based violence, most of whose work has been with female victims. These were: Millicent Obaso,³⁴ a Sexual and Gender

³⁴ CW 10

Based Violence Advisor for CARE International who also is an HIV/AIDS Advisor for East and Central Africa; Jane Onyango, the Executive Director of FIDA Kenya; and Dr. Sam Thenya, an obstetrician gynaecologist, and Chief Executive Officer of the Nairobi Women's Hospital which established a Gender Violence Recovery Centre (CVRC) in 2001 that has been a Mecca for women. They discussed the post election sexual violence in Kenya between December 2007 and March 2008 and their encounters with it. They told the Commission that sexual violence was rampant during this period consisting mainly of rape and gang rape, defilement, genital mutilation, sodomy, forced circumcision, and sexual exploitation.

[...]

Dr. Sam Thenya³⁵, the CEO of the Nairobi Women's Hospital, which provides free services to female and male victims of sexual violence, explained to the Commission that his hospital offers comprehensive treatment to survivors of sexual violence, including administering a drug, known as Post Exposure Prophylaxes (PEP) medication which if given within 72 hours of rape reduces the chances of the victim being infected with HIV/AIDS and other sexually transmitted diseases (STDs). He also relayed to the Commission the other types of services offered by his hospital including psychological and mental health and other services.

Dr. Sam Thenya told the Commission that his hospital was inundated with patients during the post election period. It treated 653 individuals to whom it was able to offer comprehensive services, including the administration of PEP. This number excludes others who came to the hospital after the 72 hour period when PEP is in effective as the hospital's statistics include only those who receive its "comprehensive services", therefore to some extent not fully taking account of the total number of individuals who came to the hospital to be treated for sexual violence. Adding in those treated at other hospitals in other parts of the country with whom he partners, Dr. Thenya testified to us that at least 900 individuals were treated, noting this was the just the "tip of the iceberg". Many more victims of sexual violence could not get to his or other hospitals to obtain treatment given the lack of security and means of transport when law and order broke down. This was an additional tragedy Dr. Thenya relayed to the Commission, adding to the Commission's understanding of the ways in which sexual violence and the results of post election violence intersected. For those on whom Dr. Thenya had collected data, 524 or 80% suffered from rape and defilement, 65 or 10% from domestic violence with the remaining 10% from other types of physical and sexual assault. The majority of the patients were women, even though the hospital treated a small number of males who had been sodomized and subjected to other form of sexual brutalization. About half of the 524 were adults and the other half were children with 207 knowing their attackers. The majority of the attackers were known but not named, followed by neighbors, relatives, and friends. Of the patients coming to the Nairobi Women's Hospital, 58% were from Nairobi, with the rest coming from Kiambu, Nakuru, Naivasha, Eldoret, Makueni, Machakos, and Ongata Rongai.³⁶

Testimony from Victims

³⁵ Exhibit 12 B.

³⁶ The figures come from Dr. Thenya's testimony and from Exhibits 14 A-C

The Commission received testimony from victims of sexual violence in public, in private, from statements collected by investigators, including those from victims who did not wish to appear before the Commission but nevertheless wanted their stories heard. The Commission also obtained records of interviews given to other organizations including those headed by the specialists above, who testified before the Commission. This included evidence from women, men, girls and boys who were raped, sodomized, and had their genitals mutilated. It is noted that women and girls were the majority of those affected.

Who Were the Victims of Sexual Violence?

The Commission was able to find thirty women who agreed to testify. However, while men and male children were also targets of sexual violence, none were willing to be interviewed by the Commission's investigators or to testify before the Commission. This was the situation in Naivasha where there were many forced male circumcisions, including on a teenaged boy who was near where the Commission's investigators were taking statements, but was too traumatized to record his story.

Who Were the Perpetrators?

Security Forces

Although security agents are expected to be neutral in the course of their work, the Commission received information from witnesses that some of security agents were ethnically biased, if not hostile, to individuals not from their own ethnic groups or others that they perceived to belong to political parties that they themselves did not support. According to a 29 year old married mother of two, a Luo from Naivasha, who worked for a flower company³⁷, the police officers, who were from another ethnic group, failed to help her take her injured brother to hospital and when he died, they refused to collect his body and take it to the mortuary. A Kikuyu gang had been looking for the woman's husband and when they could not find him, they set upon her brother, cutting off his testicles and his penis. Not only did they refuse, but they warned his wife that if she insisted, she "would end up like [her brother] and that it was not their work". The body thus remained uncollected for two days, started rotting and was eaten by dogs. It was only later that she got help from other police officers who were Kalenjin.

Organized Gangs

According to statements received by the Commission, the victims of sexual violence from some areas told us that they were attacked by members of organized gangs. In Nairobi, Naivasha and Nakuru, there were claims that Mungiki was involved, with their members targeting men as opposed to women. This might explain why there were no reported cases of rape and defilement in Naivasha, but instead there were cases of men being targeted and being forcibly circumcised.

Dr Kariuki Gichuki, the current Medical Officer of Health for Nakuru³⁸ confirmed having received 6 cases of forced circumcision which he described as 'traumatic circumcision....because usually circumcision, either you are in the hospital or in a traditional setting that is clean and boundary kind of surgical procedure but this one was a bit crude and not orderly'. The doctor further

³⁷ CW 36

³⁸ CW 46

referred to the cases as ones of 'pilary amputation' and explained that 'usually, circumcision is the surgical removal of foreskin but in [a particular case] a 22 year old male [had his] whole penis actually cut'.

In addition to destroying property, killing and maiming, the members of the Mungiki gang were said to target men from specific communities believed not to practice circumcision and also believed to be in support of a particular political party with a view to circumcising them. The cruelty of what transpired differed from victim to victim. A married Luo woman with two children, originally from Huruma estate in Nairobi but displaced to an IDP camp³⁹ testified in camera as follows:

*"...I heard many people outside saying that "even here there are some ODM people we want to circumcise".'they were many and were making a lot of noise. They pushed the door saying that 'Kihii-kikuyu for uncircumcised man' you are the ones troubling us.....I saw my husband lying... down. They opened his zip, lifted his penis and cut it with a panga.... I managed to slip away and one alerted them and they said it is okay I would go away and that it is my husband they wanted to teach a lesson and circumcise."*⁴⁰

As a result of this attack her husband died due to the injuries sustained during this hideous incident.

In explaining the extent to which some victims suffered in the hands of such gangs, a woman, whose testimony has been referred to previously in camera that,

*"I found that his [my brother's] penis had been cut and placed on his mouth, his testis were chopped off and placed on his hand. I found that blood was still pouring out of his body and he was kicking as he was dying.....the following day, another workmate of mine informed me that his [my brother's] head had been chopped of and that dogs were eating his private parts. My brother was clobbered before he was mutilated. The people who did that to him were using spiked clubs. They had fixed nails on the club and as they hit his face, the nails would pluck flesh from his body".*⁴¹

Unintended Sexual Consequences of General Violence

The Commission obtained evidence from two men, both residents of Kisumu, who were victims of police shooting. Although these did not present themselves as victims of sexual violence, the general violence of which they were victims had incidental sexual effects. In one case, Gregory Ngoche⁴² testified that he was shot by the police while resting in his home with members of his family in Kisumu. He sustained injuries on his leg and was hospitalized for several days. As a result of the shooting, he suffered a sexual dysfunction. Another witness, John Apiyo,⁴³ testified that he worked as an askari in Kisumu and was shot from behind by a stray police bullet as they tried to deal with a riot within his place of work. He sustained an injury on his testicles from the shooting and now has a sexual dysfunction.

³⁹ CW 16

⁴⁰ CW 16, Exhibit 16 B.

⁴¹ CW 16, Exhibit 16B, Statement

⁴² CW 104

⁴³ CW 93

Impact of the Victims' Health and Socio-Economic Conditions

The witness also indicated that her nephew (the late brother's son), one *'Ochieng was present when his father was being clobbered and mutilated. He has since gone mad. He keeps on saying 'dad they are chopping off your thing [to mean penis]'*".⁴⁴ Some victims of sexual violence were raped in the presence of their family members a situation that traumatised them as well as the members of their families present during the ordeal. After both she and her daughter were gang raped with her daughter becoming pregnant and later having a miscarriage, a witness told the Commission that "*[her] children were traumatized,*" something which the Commission reviewed as a huge understatement given the depth of the multiple tragedies visited on victims of Kenya's post election sexual violence.

⁴⁴ CW 36, Statement, Exhibit 36.