

Ethnicity, gender and violence in Kenya

by Peter Mwangi Kagwanja

This article examines the ethnically-discriminatory nature of Kenya's refugee policy, its influence on the administration and practice of refugee affairs, especially by relief agencies, and its role in encouraging sexual violence against women refugees.¹

The sexual violence against refugees in Kenya in the 1990s occurred against the backdrop of a huge increase in the refugee population, a shift in its ethnic composition and the rise of ethnicity as the dominant ideological force in Kenya's refugee administration.

Following the escalation of internal wars in the Horn and the Great Lakes region, Kenya's refugee population rose from nearly 15,000 in 1991 to over 427,000 refugees assisted by UNHCR and 55,000-100,000 'free-livers' in cities by mid 1992.² This number declined to less than 200,000 by March 1999 largely because of voluntary repatriation and third country resettlements. The Kenyan government claimed that the size of this population seriously compromised its security, greatly overstretched the infrastructure and medical services and undermined its tourist industry. In 1993, it asked UNHCR to repatriate all Somali, Ethiopian and Sudanese refugees.³ UNHCR spent \$40 million to establish the Dadaab camps of Ifo, Hagadera and Dagahaley in northeastern Kenya near the border with Somalia, and Kakuma near the Sudanese border; at the government's behest, UNHCR closed down the mainly Somali camps at the coast and relocated refugees to Kakuma camp, away from Kenya's economic centres.

Earlier analyses of Kenya's post-colonial refugee policy underscore the immense importance of class and ethnic concerns. In the 1970s and 80s, in order to meet its need for skilled labour and investors, the government allowed Ugandan

refugee intellectuals, businessmen and professionals to participate in economic life. In the 1990s, it also permitted well-to-do and enterprising refugees to settle and establish businesses in Nairobi and Mombasa. However, it wielded a heavy stick against poor refugees residing in slums and peri-urban areas: many were arrested and detained; some were deported.

Kenya also used ethnicity as a key criterion to determine the eligibility of refugees, particularly from pariah regimes with which it was allied. For instance, in the aftermath of the Rwandese genocide in 1994 against the Tutsi and moderate Hutu, Kenya gave the conservative Hutu a red-carpet welcome because of its own close association with the regime of Juvenal Habyarimana. Hutu refugees "arrived by Mercedes, the men in polo shirts and silk ties, the women in flowing dresses and gold earrings...[to] rent houses and flats in Nairobi."⁴

By the same token, in 1989 the government promised Siad Barre of Somalia that refugees from the rival Ogaden clan would not be given sanctuary in Kenya. In the same year, it carried out nationwide screening of its own ethnic Somalis, ordering them to carry separate pink identity cards to prove their nationality, ostensibly to flush out illegal aliens. It not only permitted Siad Barre to reside temporarily in Kenya after his overthrow in 1991 but also allowed militias from his clan to use Kenyan territory for supplying arms for the fighting in Somalia.

Refugees from other Somali clans were lumped together with Kenya's ethnic Somalis who had experienced decades of entrenched institutional discrimination, economic neglect and colonial-style collective punitive expeditions by security forces. Kenya's discriminatory practices and repression of its Somali population are historically linked to its participation in the Somali-backed *Shifita* (bandit) war in the 1960s which sought to annex northeastern Kenya to 'Greater Somalia'.

The ethnic dimension of Kenya's policy towards refugees from Sudan sought to reduce the burden of refugees on its social and economic infrastructure and to enable its own impoverished Turkana population to gain access to development opportunities accruing from the international refugee support system. This approach and the tendency of the relief agencies to ignore the more repugnant customs and practices embedded in the patriarchal culture of the refugees and their 'councils of elders' in the camps severely compromised Sudanese women's right to physical safety.

Rape and violence

The 1992-93 orgy of sexual violence against refugee women affected the predominantly Somali camps of Dadaab. A human rights group that visited camps in northern Kenya in April to May 1993 reported that "beatings of refugees, as well as sexual assault and rape, were daily and nightly occurrences".⁵ In 1993, when the violence was at its peak, 200 incidents of rape were reported in Dadaab, though, in the words of a rape counsellor, those reported "were just the tip of the iceberg". Introduction of security measures in camps brought down the number of reported rapes to an average of 90 cases per year in Dadaab in 1994 to 1998 but the physical insecurity of women has remained a fact of camp life.

Although Somali refugees were the main casualties of the rapes in Dadaab, scores of non-Somali women were also affected.

An expatriate NGO nurse was reportedly raped, prompting *Médicins sans Frontières* (Belgium) to withdraw most of its female workers from Dadaab camps in May 1993. In January 1998, five Ethiopian women were part of 165 rape survivors in Ifo camp. Over 90 per cent of the 200 reported rape victims in 1996 to 1997 were attacked when foraging for firewood or herding livestock outside the camps, although female traders who refused to pay extortion money were also assaulted. The tasks of gathering firewood and grazing goats and sheep among the Somali are customarily reserved for women and girls. Women were reportedly against the idea of their husbands collecting firewood because, given the dynamics of inter-clan feuds, men are likely to be killed while women will “only be raped”.⁶

In Kakuma, the ethnic dynamics underpinning violence against women were different and more complex than in Dadaab. Here, Sudanese male refugees and militia assaulted women, especially from the Dinka group. Sexual assault on Sudanese women revolved around the customary practices of child-marriage, forced marriage and remarriage. In the

latter case, refugee women were kidnapped and remarried to men in Southern Sudan who were able to pay huge dowries to the family in the form of cattle. Men who raped, kidnapped or forced women into marriages in Kakuma were seldom prosecuted because UNHCR camp staff were wary of being seen to interfere when they were unsure as to what extent traditional cultural practices were involved. Indeed, as the National Council of Churches of Kenya's officer in charge of the Reproductive Health Programme informed us, there were few reported cases of rape among Sudanese because no steps would be taken against the aggressors and women feared reprisal by male refugees.

Most of the occurrences of rape that appeared in the *Médicins sans Frontières* (Belgium) medical records in Dadaab involved girls, some as young as 11 and 12 years. In February to March 1998, a total of 17 girls ranging between 15 and 18 years were sexually abused and treated at Ifo camp alone. Girls were more likely to be assaulted than older women as they were the ones mainly involved in collecting firewood and grazing livestock outside the camps.

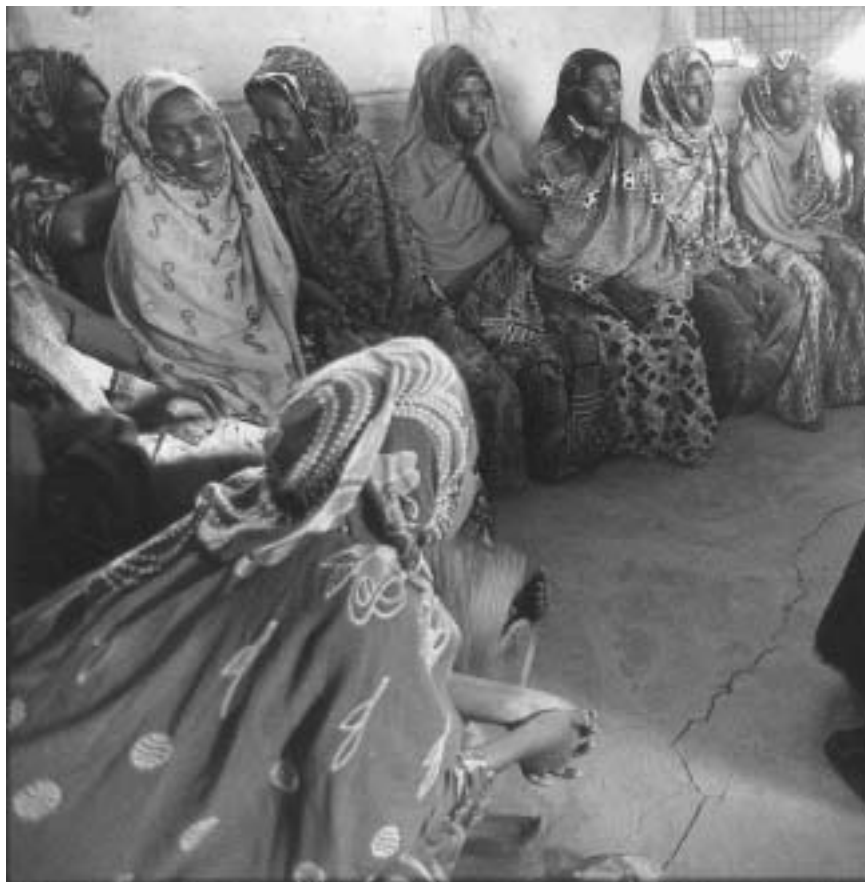
Women and girls in Dadaab were attacked by ‘bandits’ (a term that seems to have been applied generally to ‘Somali speakers’ including Kenyan nomads), male refugees, militias engaged in cross-border raids and Kenyan police and soldiers. The military activities of international forces in Somalia in Operation Restore Hope and its successor, UNOSOM, drove Somali militia and bandits into the border area where the camps were located. Most assailants moved in gangs, armed with guns, machetes and knives, and were responsible for many of the reported gang-rapes. While few women died from these attacks, some victims sustained serious injuries, contracted sexually transmitted diseases, conceived, and were generally traumatized and socially ostracized.

Rape as a weapon of war

The large-scale nature of these rapes points to a political/ethnic connection. Rape, especially of girls, has been a common weapon in inter-clan feuds in post-colonial Somali politics. In 1979, when Siad Barre trained his guns against the Majeerteen clan for allegedly staging a coup against his regime, “it was customary for the army to abduct 12 and 13-year old Majeerteen girls and hold them as ‘temporary wives for the troops’”.⁷ Rape of girls, perhaps more than any other act of aggression, exposes the utter defencelessness of the entire community; it is the exercise of ultimate power and control of one group by another.

The government cast Somali refugees, like its own ethnic Somali population, as *Shifita* or bandits and targeted them for indiscriminate retribution, particularly when unknown gunmen attacked or killed its security officers. In March 1992, after bandits had killed four police officers, a unit of some 20 or so policemen fired into a crowd of about 1,000 refugees gathering for food distribution in Dadaab's Dagahaley camp, killing three and seriously injuring six. All human rights organizations that investigated the later rape of women in Dadaab blamed Kenyan police and soldiers for committing some of these atrocities. Government reaction to the rapes of Somali women was both dismissive and defensive. Speaking to parliament, an Assistant Minister in the Office of the President expressly denied that refugee women were raped. He claimed that such reports were meant to “attract

UNHCR and its NGO partners provide counselling sessions for vulnerable women and children. Many feel the need to discuss the sexual or domestic violence they experienced in the camps, where rape continues to be a problem.



sympathy and give the government negative publicity” and advised that if allegations of rape were true, women should report them to the police.⁸ Similarly, attributing the orgy of rape on intra-Somali conflict, a government official in Dadaab asserted that “it was not Kenya’s responsibility to investigate what happened in the camps, it was for Somalis to sort out themselves”.⁹ Kenya declared itself a ‘transit country’, ceased to give refugees legal recognition and declared them a ‘UNHCR problem’ in open defiance of its obligations under the OAU Convention¹⁰ and the 1951 Convention.

Security and prosecution

In response to mounting pressure, especially from human rights organizations, the government and UNHCR introduced measures to end violence and restore security in camps. The government increased the number of police officers and introduced helicopter patrols. UNHCR contributed towards the building of police stations in Kakuma and Dadaab, provided police with vehicles, spare parts and fuel, installed a radio network and subsidized police wages. In Kakuma, the agency recruited a 120-strong force of largely local Turkana guards equipped with bicycles and radio handsets for swift movement and communication. In Dadaab, refugees constructed more than 120 km of live thorn fence around the camps to prevent attackers from entering and abducting women from the camps, and a firewood project was launched to reduce cases of women raped while foraging for firewood in Dadaab.¹¹

In support of sexually assaulted women, UNHCR established the Women Victims of Violence Programme, created the posts of Senior Coordinator and Regional Coordinator on Women Affairs plus a Rape Counsellor, and contracted the Kenyan chapter of the Federation of International Lawyers (FIDA) to provide legal services to women survivors of rape.

In March 1994, the government ordered a public inquiry into the incidences of rape in Dadaab but, despite the evidence, there were no prosecutions of police or other security officials. Scores of ‘civilian’ assailants were later arraigned, including a serial rapist who was successfully prosecuted in 1995. Many felt that the government had effectively used the inquiry as a ploy to

conceal the involvement of its own forces. Police were not only reluctant to investigate rape allegations against their own members but also accused the victims of not filing reports quickly enough to enable them to pursue the aggressors. Refugees were reluctant to report abuses because of fear of reprisal, especially from security forces; moreover, they had little access to the legal system, primarily because there were no courts within the vicinity of the camps. The nearest courts to Dadaab and Kakuma were over 100 kilometres away and their schedules were often overburdened.

UNHCR was disturbingly averse to filing civil suits for damages against perpetrators of rape under the laws of Kenya or initiating private criminal prosecution on behalf of refugees. It failed to help those refugees attacked by security personnel to bring their complaints to the authorities or to pass on their claims to the Attorney General for prosecution. Perhaps UNHCR was wary of antagonizing an already hostile government and, in the process, jeopardizing its programmes in the country. Indeed, the agency and its international NGO partners enjoyed unprecedented autonomy from the state and even exercised considerable influence over its local authorities. Not only did UNHCR steer clear of policies that were likely to attract the government’s ire but also tended to accept the state’s ethnic rhetoric and stereotyping of refugees. The agency’s staff cast Sudanese and Somali refugees as “uncooperative groups, a determination that had practical and political implications....”.¹²

Conclusion

Women refugees in Kenya became particularly vulnerable to abuse, not only because they were refugees and women but, more importantly, because of the politicization of ethnic identities. Longstanding institutional discrimination against Somalis in Kenya created a fertile ground for sexual violence against refugees; the prevalence of an institutionalized patriarchal culture in camps enabled male refugees and militias to assault and rape Sudanese women with impunity. Policies to reverse the trend in the violation of refugee women should target both specific and broad reforms.

Specifically, the government should re-dedicate itself to protecting refugees irrespective of their ideological or ethnic



UNHCR/24292/06.1994/B Press

Refugee camps need to be mapped out in a way that allows single women to avoid sexual violence. Here, Somali refugee women re-build their huts after the

affiliation. It needs to train its security personnel in the need to defend the rights of exiles; to contain bandits and militias and other sources of insecurity; to make the legal system accessible to refugees; and to prosecute refugees’ assailants. Humanitarian agencies should be steadfast in defending women



le women and mothers to be more easily protected against
ir transfer to Hagadera camp in Kenya.

refugees and confronting those discriminatory policies which undermine the physical safety of refugees. For instance, UNHCR should strengthen its capacity to offer legal assistance to refugees, including legal representation and initiation of private criminal prosecution of those violating their freedoms. While refugees

should enjoy their full right to practise their cultural traditions, practices that endanger the physical safety and rights of women refugees and crimes arising from them should be tried in the court of law.

More broadly and fundamentally, efforts to create a policy environment that guarantees the safety and rights of women refugees should, of necessity, take into account the underlying ethnic or racial sensibilities that give impetus to other discriminative social relations, such as gender. As the case of Kenya shows, sexual violence against women occurred against a backdrop of ethnic discrimination, exacerbating discriminatory gender practices in the camps.

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1 While earlier surveys tended to focus almost exclusively on the experiences of Somali refugees, the present study advances on these works by engaging the ethnic dynamics surrounding the events of 1990s and extending the analysis to the experiences of non-Somali communities, especially Sudanese and Ethiopians.

2 UNHCR Country Profile - Kenya, 1998.
www.unhcr.ch/world/afri/kenya.html

3 *International Herald Tribune*, January 20, 1993

4 'Safe Haven in Kenya for Some: Rwandese Hutus', *Economist*, 18 November 1995, Vol 337, No 7941, p42.

5 Lawyers Committee for Human Rights *African Exodus: Refugee Crisis, Human Rights and the 1969 OAU Convention*, 1995, New York.

6 G Mwaura 'Bandits Terrorize Refugee Women in Dadaab Camps' *The East African*, July 27-August, 1998.

7 Kenya Human Rights Commission *Haven of Fear: The Plight of Refugees in Kenya*, 1999, Nairobi.

8 *Daily Nation*, 29 July 1993.

9 *Refugee Survey Quarterly*, Vol 13, No 1, 1994: 53

10 Although the OAU Convention is not explicitly clear on the obligations of the state *vis-à-vis* refugees, it is possible to make claims based on Article II (1) on Asylum read together with Article IV on Non-Discrimination.

11 See 'The environment of refugee camps : a challenge for refugees, local populations and aid agencies' by Thomas Hoerz in *RPN* issue 18 (May 1995): www.fmreview.org (click on back issues)

12 Jennifer Hyndman *Managing Displacement: Refugees and the Politics of Humanitarianism*, 2000, Minneapolis & London: University of Minnesota Press.

Integrating a gender perspective into humanitarian and peacekeeping operations

Security Council resolution 1325 (2000): October 2000

In October 2000, the Security Council adopted resolution 1325 (2000), calling on all actors involved in negotiating and implementing peace agreements to adopt a gender perspective to include the special needs of women and girls during repatriation and resettlement, rehabilitation, reintegration and post-conflict reconstruction. Such a gender perspective would also include measures supporting local women's peace initiatives and indigenous processes for conflict resolution and involving women in all the implementation mechanisms of peace agreements.

The Council urged Member States to increase the participation of women at decision-making levels and urged the Secretary-General to appoint more women as special representatives and envoys. Furthermore, the Council urged the Secretary-General to expand the role of women in UN field-based operations, especially among military observers, civilian police, human rights and humanitarian personnel.

The Council called on all parties to armed conflict to protect women and girls from gender-based violence. It emphasized the responsibility of all States to end impunity and to prosecute those responsible for genocide, crimes against humanity and war crimes, including those relating to sexual violence against women and girls.

In addition, paragraph 12 of the resolution "calls upon all parties to armed conflict to respect the civilian and humanitarian character of refugee camps and settlements, and to take into account the particular needs of women and girls, including in their design".

For the full text of the resolution, visit www.un.org/Docs/scres/2000/res1325e.pdf