

Forced male circumcision: gender-based violence in Kenya

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After the 2007 election in Kenya, widespread violence broke out. One instance is illuminating. In January 2008, 16-year-old Walter Odondi, a member of the Luo ethnic group—the same group as Raila Odinga, the presidential candidate who was challenging the election results—was kidnapped and blindfolded by a group of men. He describes what happened next:

First, they took off my pants, and they started mocking me because I was wearing only my underwear. And they ripped off my underwear using a panga [a large knife]. When the men had pinned me down, the man with the panga pulled my foreskin out and started to play with it. He would slice it a little, and then he started mocking me, and then he would slice it a little more, and then mock me some more. This cutting lasted for five minutes, and it was the greatest pain I have ever felt in my life. It felt like a million little pins pricking my manhood.¹

Female genital mutilation has been widely addressed by scholars and policy-makers in a global effort to eradicate the practice, including a 2012 UN General Assembly resolution that called for a worldwide ban. Grassroots efforts have been particularly successful in education to decrease the frequency of the practice.² Though some have argued that male circumcision is an analogous practice, it is not accepted as inherently a human rights issue, and is widely practised.³ This article does not seek to enter into the debate on male circumcision; rather, I explore cases of forced adult male circumcision as a form of gendered sexual violence.

Though this latter practice is not very common, it occurs in specific contexts, often in a wider story of political violence. It is important to consider this form of gendered sexual violence precisely because it contravenes typical assumptions about male sexual organs as penetrating rather than penetrated, active rather than passive, and of male sexuality as inviolable. Forced male circumcision has not yet been recognized as a specific gendered human rights abuse in international

¹ Robbie Corey-Boulet, 'In Kenya, forced male circumcision and a struggle for justice', *The Atlantic*, 1 Aug. 2011, <http://www.theatlantic.com/international/archive/2011/08/in-kenya-forced-male-circumcision-and-a-struggle-for-justice/242757/>. (Unless otherwise noted at point of citation, all URLs cited in this article were accessible on 1 Sept. 2017.)

² See e.g. the UNICEF report *Female genital mutilation/cutting: a statistical overview and exploration of the dynamics of change* (New York, 2013), https://www.unicef.org/media/files/UNICEF_FGM_report_July_2013_Hi_res.pdf.

³ Estimates are that 37–39% of men worldwide are circumcised. See Brian Morris, Richard Wamai, Esther Henebeng, Aaron Tobian, Jeffrey Klausner, Joya Banerjee and Catherine Hankins, 'Estimation of country-specific and global prevalence of male circumcision', *Population Health Metrics* 14: 4, 2016, pp. 1–13.

humanitarian law. This article takes the first step towards assessing these acts by considering them in the context of post-election violence in Kenya in 2007. This case allows for the exploration of how forced male circumcision was used in a context of political violence and militia-led—and often state-sanctioned—terror. It is thus possible to consider in this article multiple legal issues and concerns that arise from this sort of violence in different contexts.

I situate the case within a larger framework of conventional understandings on gender and violence as a means to question them and render them problematic. Specifically, I argue that understanding sexual violence as exclusively targeting women prevents appropriate prosecution of forced male circumcisions in Kenya and of sexual violence against men more generally. Sexual violence against men involves forms of emasculation in which perpetrators seek to feminize their victims by rendering them weak, violated and passive, in contradistinction to stereotypical masculine ideals. If one's relationship to femininity is a crucial issue in sexual violence, whether the victims are men or women, then being able to properly account for cases like Kenya, in both a political and a legal sense, is crucial to legal accountability for sexual violence more broadly.

The article draws on media reports, victim and witness statements, the statements made by organizations concerned with human rights, gender and violence, and material offered up by legal indictments. It proceeds as follows. First, I contextualize the argument by describing understandings of, and protections against, sexual violence in international humanitarian law, examining the impact of essentialist views of gender on the implementation of these protections. I then illustrate this impact using the Kenyan case, and examine the specifics of prosecution in the International Criminal Court (ICC) in the case of forced male circumcisions in Kenya. I conclude by suggesting potential ways to address this type of violence. These cases of forced male circumcision are significant, because there have been renewed efforts to address sexual violence in international frameworks, particularly through the efforts of international organizations, and specifically the ICC, and the case of Kenya, as the most widespread instance of forced adult male circumcision, provides fertile ground for this examination. It is important, then, to understand how to address gender-specific violence against men through the efforts of international organizations such as the ICC.

Sexual violence in international humanitarian law

Sexual violence is widely accepted as a problem exacerbated by conflict and in need of redress by the international community. Both the UN's Women, Peace and Security Agenda and international humanitarian law emphasize rape as a weapon of war.⁴ Though there are still numerous complexities associated with

⁴ Paul Kirby, 'Ending sexual violence in conflict: the Preventing Sexual Violence Initiative and its critics', *International Affairs* 91: 3, May 2015, pp. 457–72; Sam Cook, 'The "woman-in-conflict" at the UN Security Council: a subject of practice', *International Affairs* 92: 2, March 2016, pp. 353–72; Roberta Guerrina and Katharine A. M. Wright, 'Gendering normative power Europe: lessons of the Women, Peace and Security agenda', *International Affairs* 92: 2, March 2016, pp. 293–312.

the prosecution of rape in international human rights courts such as the ICC, the legal mechanisms exist for addressing sexual violence as a human rights violation. The UN Security Council has addressed this issue through Resolutions 1325, passed in 2000, 1820 (in 2008), 1880 (in 2009) and 1960 (in 2010). Resolution 1325 has been described as a landmark, as it both noted the role of women in peace and conflict resolution and called on parties to conflict to take ‘special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse’.⁵ Here we begin to see the way in which legal protections with regard to sexual violence tend to be situated within frameworks of women’s advancement and gender equality, and the connections between women, peace and security—one of the reasons why it has been so difficult for global legal frameworks to address forced male circumcision and sexual violence against men more generally. As Anjali Manivannan notes:

Despite the sex-neutral language of the Rome Statute, many international instruments and customary international law still exclude men as a class of sexual violence victims in armed conflict. Documents at the international level frame sexual violence as an issue involving women and girls, excluding men from legal frameworks, enforcement mechanisms, and receiving protection.⁶

The language of the UN resolutions is often gender-neutral, but when one delves into the specifics they offer for implementation, the language becomes more exclusive.

Language used by the UN Special Representative to the Secretary-General on Sexual Violence in Conflict in 2017 is a case in point. Though the policy recommendations include increased awareness of violence against men and boys, women and children are several times characterized as particularly vulnerable to sexual violence, and there is a specific call for ‘women’s protection advisors’.⁷ As Dustin Lewis argues, ‘international instruments and customary international law have developed in ways that often exclude, whether explicitly or implicitly, men as a class of victims of sexual violence in armed conflict’.⁸ For example, sexual violence against men is often categorized under torture, which ‘minimizes the sexual nature of the crime’.⁹ At the International Criminal Tribunal for the former Yugoslavia (ICTY), a predecessor to the ICC, genital mutilation was characterized as ‘torture’ or ‘degrading treatment’, and at numerous truth and reconciliation commissions, notably in Peru in the early 2000s, these acts were also described as ‘torture’ and not as forms of sexual violence.¹⁰

Sexual violence against men can take numerous forms. Anjali Manivannan notes several:

⁵ See Office of the Special Adviser on Gender Issues and the Advancement of Women, ‘Landmark resolution on Women, Peace and Security’, n.d., <http://www.un.org/womenwatch/osagi/wps/>.

⁶ Anjali Manivannan, ‘Seeking justice for male victims of sexual violence in armed conflict’, *International Law and Politics* 46: 2, 2014, pp. 636–79 at p. 653.

⁷ See e.g. the website of the Special Representative’s office: <http://www.un.org/sexualviolenceinconflict/our-work/recommendations/>.

⁸ Dustin Lewis, ‘Unrecognized victims: sexual violence against men in conflict settings under international law’, *Wisconsin International Law Journal* 27: 1, 2012, pp. 1–49 at p. 2.

⁹ Manivannan, ‘Seeking justice’, p. 643.

¹⁰ Manivannan, ‘Seeking justice’, p. 643.

oral and anal rape by perpetrators or 'enforced rape' between victims, sometimes including family members or the dead; forced fellatio on perpetrators or other victims; enforced sterilization, including castrations; sexual slavery; forced masturbation; enforced nudity; and other violence to the genitals, such as genital beatings.¹¹

One of the issues becomes, then, that gender-based violence in international frameworks is equated with sexual violence against women, and more specifically with rape, which incidentally obscures many of the other forms of gender-based violence that target women. Because of these linkages, and the prevalence of both wartime and peacetime rape against women, sexual violence against men remains conceptualized similarly as rape: usually as male-on-male forcible penetration. Given the existence of national-level laws in many countries that prosecute consensual sex between males, men who are violated in this way have an incentive not to report their rape for fear of being prosecuted themselves. As a result, the numbers of male victims of sexual violence are woefully under-reported in times of both conflict and peace; and because of the focus on rape, other forms of sexual violence against men remain outside the purview of international humanitarian law as it is implemented. It would be inaccurate to claim that international law adequately protects women from, or provides redress for, sexual violence; however, while there is widespread agreement that more needs to be done to address sexual violence, and numerous legal protections have been instituted and programmes implemented, these protections focus on forms of sexual violence that predominantly target women, and the way they are instituted on the ground and in legal forums such as the ICC display their reliance on essentialist views of gender, as will be described further below.

Even as international humanitarian law has increasingly addressed sexual violence against women within a women's advancement paradigm, scholars are beginning to pay more attention to the ways in which sexual violence against men is being used in political conflicts. As Dustin Lewis notes, 'sexual violence against men as a constituent element of genocide, crimes against humanity, and war crimes often goes under noticed, under prosecuted, and, ultimately, under punished'.¹² Sandesh Sivakumaran has compiled a list of recent conflicts that have included sexual violence targeting males: it runs to more than 25 instances, in locations including the Central African Republic, Chechnya, the Democratic Republic of Congo, Guatemala, India, Iraq, Rwanda, Sri Lanka, Sudan and the Balkans between 2007 and 2009.¹³ Specifically sexual violence, such as genital beating and forced castration, has recently taken place in Bosnia, Kosovo, Northern Ireland and Sri Lanka.¹⁴

The characteristics associated with masculinity pose difficulties for attempts to conceptualize men as victims of violence, particularly sexual violence, in many frameworks of counter-violence. The same stereotypes that discourage a man from reporting being raped because he fears being seen as less of a man, and that

¹¹ Manivannan, 'Seeking justice', p. 642.

¹² Lewis, 'Unrecognized victims', p. 1.

¹³ Sandesh Sivakumaran, 'Lost in translation: UN responses to sexual violence against men and boys in situations of armed conflict', *International Review of the Red Cross* 92: 877, 2010, pp. 259–77 at p. 264.

¹⁴ Manivannan, 'Seeking justice', p. 645.

make men's stories less likely to be believed when they do speak up, because their very masculinity is supposed to render them inviolable, also exist in the performance of male circumcision. Men are assumed to be fully in control of their sexual organs, so the idea that they could be violated against their will, especially as adults, seems inconceivable. This is particularly true in a context where circumcision is considered to be a positive act on health grounds.

These views and assumptions fit within a larger gendered framework that tends to label women as victims of men's agency while men are labelled as the aggressors where violence occurs. Numerous scholars have described the problems associated with assuming that women are always the victims of violence.¹⁵ This article looks instead at a related question: what are the implications, when men are presumed to be the perpetrators of violence, for men who are genuine victims of violence? Specifically, it considers sexual violence against men situated within a larger context of political violence.

Charli Carpenter focuses on this exact issue in relation to the evacuation of refugees at Srebrenica in the former Yugoslavia. In March 1993, the UN High Commission for Refugees (UNHCR) evacuated refugees from the area. More precisely, it evacuated children, women, the elderly and the ill; men of an age eligible for military service were not evacuated, and suffered systematic extermination in July 1995, when approximately 7,000 of them were killed.¹⁶ At Srebrenica, women, the elderly and children were feminized, and thus associated with the status of non-combatants and granted immunity accordingly. Men of military age were considered to be combatants simply by virtue of their gender, and the characteristics usually associated with it, including the ability to defend oneself. As a result, they were not given the immunity accorded to non-combatants, despite their legal status as civilians and non-combatants, and despite the fact that they were just as helpless as those who were evacuated—as was only too evident when they were massacred two years later. The terms 'women' and 'children' were conflated with that of 'non-combatant', as Carpenter demonstrates, while masculinity seemed to preclude being a non-combatant, perhaps simply because of the assumed potential for military-age men to engage in violence.

It is worth delving more deeply into the question of male targeting via Carpenter's study of the organizational way in which the conflation of men and combatants was systematically reinforced. She explores the use of what may be termed 'gender essentialism': the idea that certain characteristics are presumed to be naturally associated with men and others with women, and that they are mutually exclusive. She argues:

¹⁵ See Charli Carpenter, "Women and children first": gender, norms, and humanitarian evacuation in the Balkans 1991–95', *International Organization* 57: 4, 2003, pp. 661–94, "Women, children and other vulnerable groups": gender, strategic frames and the protection of civilians as a transnational issue', *International Studies Quarterly* 49: 2, 2005, pp. 295–34, and 'Innocent women and children': gender, norms, and the protection of civilians (London: Ashgate, 2006); Laura Sjoberg and Caron Gentry, *Mothers, monsters, whores: women's violence in global politics* (London: Zed, 2007); Jessica Auchter, 'Gendering terror: discourses of terrorism and writing woman-as-agent', *International Feminist Journal of Politics* 14: 1, 2012, pp. 121–40.

¹⁶ Carpenter, 'Innocent women and children'.

'protection of civilians' as an international norm has been framed in such a way as to reproduce the traditional notion that 'women and children' (but not adult men) are 'innocent' and 'vulnerable'. Through this process, the 'civilians' frame has been distorted by reliance on a proxy—'women and children'—that both encompasses some combatants (female and child soldiers) and excludes some non-combatants (adult civilian men).¹⁷

The problem with this distortion of the frame is that it renders civilian men legitimately targetable and represents a failure to respond to the vulnerabilities of male non-combatants. Carpenter recounts a conversation between General Morrillon of the UN Protection Force (UNPROFOR) and UNHCR official Hollingworth, where the former says to the latter in reference to the evacuation at Srebrenica in 1993: 'No men under sixty, OK?'¹⁸ The notion that these men did not count as civilians, regardless of the fact that they were not engaged in fighting, reinforces gender essentialisms that naturalize a link between men and violence.

Gender essentialisms also play a role in how male victims of sexual violence are perceived. In the case I discuss below, notions of masculine inviolability and the inability of legal frameworks to comprehend sexual violence against men, despite widespread evidence, fail to properly punish and deter perpetrators of sexual violence against men. The issue becomes even more complex when the form of sexual violence forcibly enacted on these male victims, forced circumcision, is a practice that features in wider debates about health and consent, and is often considered a protected cultural practice itself.¹⁹ I argue that acknowledging the male victim of sexual violence is integral to a comprehensive international framework that targets gender-based violence and sexual violence.

Sexual violence against men is gender-based violence that is insidious precisely because it relies on the widely accepted view that men are not victims of gender-based violence, thereby justifying it within other discourses. It is important to address it precisely because it is a form of sexualized, embodied political violence, as will be established in the case examined, and because it can tell us something about larger understandings of political community linked to notions of masculinity.

There is an important dimension of emasculation here, because the sexual violence being addressed is perpetrated by males on male victims,²⁰ and is situated within wider discourses of masculinity and its connections with qualified political

¹⁷ Carpenter, "'Women, children and other vulnerable groups'", p. 296.

¹⁸ Carpenter, "'Women and children first'", p. 661.

¹⁹ There is an ongoing debate about the practice of male circumcision on babies. Legato, for example, argues that the desire to continue the practice of circumcision is simply a cultural predilection to have the son 'look like Dad': see Marianne Legato, 'Rethinking circumcision: medical intervention, religious ceremony, or genital mutilation?', *Journal of Gender Specific Medicine* 5: 4, 2002, pp. 8–10. Other ethicists have addressed the problem of consent. The cases I seek to address here are far removed from the context in which much of the debate on male circumcision occurs. First, the instances here concern adult males, not babies, bringing the question of consent forward in a very different way: not as part of the debate about who can consent (those who oppose male circumcision often do so on the grounds that infants cannot consent to the practice), but rather as involving adults who are already presumed by society to be able to consent. Second, the cases often occur in a context of wider violent acts, which raises the question of how to categorize this violence in a legal context.

²⁰ Though women can be perpetrators of sexual violence against men, I focus here only on violence perpetrated by men against men, simply because that subset is what we see in the Kenya case.

participation, as the Kenya case will illustrate. As recent research has noted, there are connections between sexual violence and notions of masculinity.²¹ But this research predominantly focuses on how militarized masculinity leads to sexual violence against women. This article, by contrast, seeks to elaborate how the same frameworks can also lead to particular forms of sexual violence against men. And, as Anjali Manivannan notes, ‘male victims may feel even more stigmatized and victimized than females in light of hyper-masculinized conflict situations’.²² Sexual violence targeted against men is often designed to be emasculating, and to expand beyond the individual body to the social body, to paint the victim’s community as ‘lesser’,²³ as we shall see in the following analysis of the violence in Kenya in 2007.

The Kenyan case

In 2007 presidential elections were held in Kenya. Raila Odinga, a member of the Luo ethnic group, was widely favoured to win the election with his Orange Democratic Movement (ODM) party. But Mwai Kibaki, a member of the Kikuyu ethnic group and the Party of National Unity (PNU), won, amid widespread accusations of election rigging and corruption. Protests erupted, and the protests degenerated into violence, ultimately resulting in over 1,000 deaths and over 350,000 displaced persons.²⁴ A small part of this violence involved the forced male circumcision of Luo boys and men. The Luos do not traditionally practise male circumcision. For the Kikuyus, on the other hand, circumcision for young men is a vital cultural ritual and rite of passage. Held around the age of 13 or 14 when young men are going through puberty, circumcision marks the transition to manhood, and into membership of the political community.²⁵ Discrimination based on circumcision status has historically existed between the Luos and Kikuyus.²⁶

This section of the article examines the case of forced male circumcisions during the post-election violence in Kenya in 2007 as a means of considering the problems with the way international humanitarian law accounts for sexual violence against men. I illustrate how the victims of sexual violence in this case are feminized. Specifically, I examine a paradox: in Kenya, among the Kikuyu ethnic group, circumcision is seen as enabling entry into a group of higher social

²¹ Maria Eriksson Baaz and Maria Stern, ‘Why do soldiers rape? Masculinity, violence, and sexuality in the armed forces in the Congo’, *International Studies Quarterly* 53: 2, 2009, pp. 495–518.

²² Manivannan, ‘Seeking justice’, p. 640.

²³ Manivannan, ‘Seeking justice’, p. 646.

²⁴ L. Muthoni Wanyeki, ‘Lessons from Kenya: women and the post-election violence’, *Feminist Africa*, 10 Aug. 2008, pp. 91–8 at p. 95.

²⁵ See Beth Maina Ahlberg, ‘Is there a distinct African sexuality? A critical response to Caldwell’, *Africa: Journal of the International African Institute* 64: 2, 1994, pp. 220–42; Beth Maina Ahlberg and Kezia Muthoni Njoroge, ‘“Not men enough to rule!”: Politicization of ethnicities and forcible circumcision of Luo men during the postelection violence in Kenya’, *Ethnicity and Health* 18: 5, 2013, pp. 454–68. Jomo Kenyatta’s memoir is also illuminating on Kenyan cultural rituals and ties: see Jomo Kenyatta, *Facing Mount Kenya* (London: Secker & Warburg, 1938).

²⁶ Corey-Boulet, ‘In Kenya’.

standing and the political community more broadly by conferring the status of manhood. But performed as an act of sexual violence, in this case by force on Luo men by Kikuyu men, it becomes a degrading act, one which is designed to emphasize the lower standing of Luo men. That is, a practice that, when carried out as part of accepted communal ritual, is considered elevating and masculinizing becomes, when perpetrated on victims, the very opposite: degrading, feminizing and castrative,²⁷ implying the contradictory gender significations involved in circumcision.²⁸ Such violence is about reinforcing an embodied notion of qualified political participation, and indeed of what a qualified male body looks like. This section of the article, then, focuses on contested cultural notions of what makes a man as an entry point into considering forced male circumcision in Kenya as a form of gender-based violence.

As Wanjiru Kamau-Rutenberg has noted,

if we are to take seriously that gender is a social construct that assigns different power values to the masculine while usually devaluing the feminine then there are some very serious gender implications for what happened in Kenya ... the Kenyan experience shows how, in a moment of political tension, anyone, even men, can be feminized, and once that is achieved, brutalization and violation is an easily justified next step.²⁹

As she notes, drawing attention to gender essentialisms means taking seriously masculinity and femininity, and their associations with violence and victimization.

Many have testified to the use by the attackers in the forced circumcisions of the term *kihii*—a derogatory term in Kikuyu vernacular for an uncircumcised man—and have noted that this violence is symptomatic of ethnic divisions in Kenya, reflected in political divisions in the 2007 election. Mary Njeri Gichuru, executive director of the Coalition on Violence Against Women in Kenya, emphasized the tribalism at the heart of the violence: ‘For the many communities that circumcise, not being circumcised is a very abominable thing. That’s why it’s easy for them to abuse others for not circumcising. They believe that if you aren’t circumcised, you can’t be a leader.’³⁰ In the election campaign, ‘the fact that Odinga was uncircumcised became an issue: He was seen by some Kikuyus as a “child” unfit to rule because he had not passed through circumcision and initiation.’³¹ The testimonies

²⁷ It thus provides a window on the contradictory fantasies mobilized in this type of sexual violence. See e.g. Renata Salecl, *The spoils of freedom* (London: Routledge, 1994), which analyses the role of fantasy in sexual war crimes.

²⁸ Indeed, as Eric Silverman has noted, recently anthropologists have drawn attention to the paradoxical nature of circumcision. It flirts with castration by emphasizing that real masculinity emerges only with the loss of the foreskin: the opposite of the Freudian ‘penis envy’ argument. He draws attention to the way in which circumcision as a rite focuses on embodied selfhood. See Eric Silverman, ‘Anthropology and circumcision’, *Annual Review of Anthropology* 33, 2004, pp. 419–45. This gives some context to the way in which circumcision can simultaneously act as a key ritual in Kikuyu culture and as a tool for inflicting humiliation on their enemies.

²⁹ Wanjiru Kamau-Rutenberg, ‘A gender analysis of forced male circumcisions during Kenya’s post-election violence’, *African Arguments*, 17 July 2009, <http://africanarguments.org/2009/07/17/watu-wazima-a-gender-analysis-of-forced-male-circumcisions-during-kenya’s-post-election-violence/>.

³⁰ ‘Kenya: plea to ICC over forced male circumcision’, IRIN, 25 April 2011, <http://www.irinnews.org/report/92564/kenya-plea-to-icc-over-forced-male-circumcision>.

³¹ Robin Dixon, ‘Forced circumcision reported in Kenya’, *Los Angeles Times*, 9 Jan. 2008, <http://articles.latimes.com/2008/jan/09/world/fg-circumcision9>.

of survivors and witnesses also note the use of this type of language by the perpetrators during and after the attacks.

This language means that forced male circumcision in Kenya is directly linked to gender essentialisms: contested cultural notions about what makes a man. As Wanjiru Kamau-Rutenberg notes, it is the feminization of Luo men that has allowed them to become victims, and rendered the actions of perpetrators defensible in the rhetoric of making manhood. She notes:

The construction of Luo men as feminine was a process that had begun long before in Kenya's ethnic politics. This construction ranged from Kenyatta's rhetoric in newly independent Kenya to the murmurs, whispered under Kikuyu breaths during the referendum on the Draft Constitution, that Kenya could not be led by *mtu mzima*. The Kiswahili term, meaning whole person or adult, was used euphemistically to refer to ODM's leader Raila Odinga. The term was used as a double entendre in deriding Odinga, who, by virtue of being Luo, was uncircumcised hence anatomically 'whole' while at the same time pointing to the contradiction that he could not be adult because he was uncircumcised³² ... Once the construction of Luo men as feminine was firmly entrenched, there was almost no defense needed for brutalizing them ... The forced circumcisions were not just acts of violence; they must be understood as occurring within the context of Luo feminization. This feminization fits within the context of a biased history that tells Kenya's story as that of brave Kikuyu warriors, the Mau Mau, who rescued the state from its colonial masters. From this biased Kikuyu perspective, Kenya's history has been told as a story of Kikuyus as more hardworking than all the rest. Other ethnic groups are constructed as weaker, belonging less, having less of a stake in: as feminine. The forced circumcisions represented Kikuyu men declaring that they wield a masculine power over the feminized Luo men whose flesh they mutilated.³³

The exact number of forced circumcisions committed remains unknown. Many victims did not report their attacks to the authorities, and many of the victims were later killed or died from the bleeding. Targets included men who were involved with the political process as part of Odinga's political party, as well as young men such as Walter Odondi, with whose story this article began, who was attacked simply because he was identified as a Luo. There are numerous testimonies of occurrences of forced circumcision—and even castration, which ostensibly would make legal prosecution easier. Here I describe several of these testimonies.

A witness in Kibera, a slum in Nairobi, herself saw five men being forcibly circumcised by men, including two who were castrated and their penises thrown into a fire. She believed those two men were then killed. A surgeon at Kenyatta National Hospital in Nairobi said he had operated on two men with injuries to their penises: 'There were cuts around the foreskin, probably an attempt at circumcision,' he noted.³⁴ A mortuary assistant in Nairobi said that out of the

³² As she further notes: 'Interestingly, rather than challenge the discursive privilege accorded to circumcision as a measure of manhood, Odinga has continued to insist that he is himself circumcised. He has also become one of the staunchest advocates of circumcision as a method of preventing HIV/AIDS transmission in line with recent scientific findings.'

³³ Kamau-Rutenberg, 'A gender analysis'.

³⁴ 'Kenyan gangs use genital mutilation as weapon in post-election violence', Fox News, 15 Jan. 2008, <http://>

bodies brought to the morgue, 'two adult males appeared to have been crudely circumcised before being hacked to death'.³⁵ Both the surgeon and the mortuary assistant refused to be identified for fear of reprisals. Some stories of cases that were referred to hospitals were reviewed in the ICC's initial prosecution:

A 22-year-old man had his penis cut off in the attacks in Nakuru, which also targeted boys aged between five and 11 years. Those who resisted the forced circumcision attempts were beheaded, according to the prosecution. 'There were four cases of Luo men being circumcised while another had his penis cut on January 25, 2008 on a day where seven male victims from the same community were admitted at Nakuru, Rift Valley Provincial General hospital suffering from various cases of sexual abuses.'³⁶

Dr Samwel Oyugi, a Kenyan American who was visiting Kenya throughout the post-election violence, said he had heard about several cases of forced circumcision:

What they say they saw were some of their relatives that were forcefully circumcised, and some that were killed ... Basically, you're held down by a group of people from the Kikuyu tribe, and they basically cut your foreskin, without any regards to how much pain they cause.³⁷

Similarly, Edward Omolo, another Kenyan American interviewed by the Associated Press, noted that he had himself heard about 20 'mutilation killings': the victims included his uncle, a 45-year-old Luo, who died after bleeding to death from a forced circumcision in Nairobi in December 2007: 'He was killed, circumcised to death.'³⁸ In an equally severe case, Caroline Anyango's husband ran for a position as a councillor with Odinga's ODM in the 2007 elections, making him an especially visible target.

A group of 20 men broke down the door to their home, found Anyango's husband hiding in a bedroom, and sliced off his foreskin with a panga. 'We were all forced to watch, including the children,' said Anyango, who asked that her name be changed for fear of reprisals. 'They were saying that until all the Luos are circumcised they can't take part in the political process.'³⁹

Her husband managed to break free and run, but he was quickly caught and castrated, at which point he jumped into a quarry and committed suicide.

Accounts of these acts provide evidence not only of their political motivations, but also of how this was intertwined with the sexual and gendered nature of the act.

Kevin Omollo, 23, a Kibera resident who was forcibly circumcised the day after poll results were announced, told IRIN the crime should be considered a form of sexual violence,

www.foxnews.com/story/2008/01/15/kenyan-gangs-use-genital-mutilation-as-weapon-in-post-election-violence/.

³⁵ 'Kenyan gangs'.

³⁶ Vitalis Kimutai, 'Mungiki raped, forcibly circumcised and amputated victims' genitals', *Standard Digital*, 23 Sept. 2011, <http://www.standardmedia.co.ke/business/article/2000043340/mungiki-raped-forcibly-circumcised-and-amputated-victims-genitals?pageNo=1>.

³⁷ 'Kenyan gangs'.

³⁸ 'Kenyan gangs'.

³⁹ Corey-Boulet, 'In Kenya'.

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saying he viewed the attack as an attempt to rob him of his 'manhood'. On the morning of 31 December 2007, Omollo joined supporters of Raila Odinga, the Luo politician who was declared the loser in the election and is now Kenya's prime minister. When the mob was dispersed by police officers, Omollo fled, only to run into a group of the outlawed Mungiki criminal gang. Unarmed, Omollo was quickly thrown down by his dreadlocked assailants, members of the Kikuyu group, who carried guns, clubs and pangas and promptly beat him. Eventually, one removed his pants and sliced off his foreskin with a six-inch kitchen knife. 'The only thing I could feel was the pain in my genitals,' Omollo said. 'It was really intense.' Fellow Odinga supporters then came to rescue him. As he was whisked away he could hear his attackers saying, 'How can a kihii [uncircumcised boy] rule the country? How can we have a president who is not circumcised?'⁴⁰

As Robin Dixon relates,

when men with machetes and axes chased Paul Otieno from his home here, they wanted more than his belongings. They wanted to cut off his foreskin. 'They were shouting, "If we don't kill you, we'll cut your private parts," Otieno, a 25-year-old mechanic, said of the attack Sunday. "They were just shouting, 'Kill! Chop them all!'"⁴¹

As Dixon notes, the attacks, though relatively infrequent, are making Luos concerned about their safety, and their 'manhood and cultural practices'.⁴² Dixon described how some of the perpetrators paraded the genitals of men they had castrated as trophies through the streets. The triumphalist way in which these forced circumcisions and castrations were carried out mark them not simply as an attempt to spread a cultural ritual, but as the use of that same Kikuyu cultural ritual to forcibly mark difference and violently humiliate other groups who do not practise the same cultural rites. It is thus sexual violence situated within wider tribal and ethnic divisions. We often see this sort of sexual violence play out in the form of rape during ethnic conflict, as a means to rupture communities and exercise power and control over the bodies of those labelled as the enemy, but this form of sexual violence is much less common against men. In the Kenyan context, this form of sexual violence is evidence of underlying contestations over hegemonic masculinity. That is, the notion that some cultural practices transform boys into men and thereby worthy members—and indeed leaders—of a political community is directly related to the power exerted by men over other men during episodes of political violence.⁴³

In this sense, the goal of these circumcisions is not to raise the status of Luo men by circumcising them forcibly, but rather to reinforce an embodied notion of qualified membership in a political community, and a particular picture of what a qualified body looks like. This makes it different from most forms of sexual violence, which is focused on lowering the standing of particular bodies. In this

⁴⁰ 'Kenya: plea to ICC'.

⁴¹ Dixon, 'Forced circumcision'.

⁴² Dixon, 'Forced circumcision'.

⁴³ See Chris Dolan, 'Collapsing masculinities and weak states: a case study of northern Uganda', in Frances Cleaver, ed., *Masculinities matter!: Men, gender, and development* (New York: Zed, 2002), pp. 57–84; Elisa von Joeden-Forgey, 'Genocidal masculinity', in Adam Jones, ed., *New directions in genocide research* (London: Routledge, 2012), pp. 76–94.

case, the particular form of sexual violence at issue focuses on the higher social and political standing that circumcision represents. This paradox is obscured by simply labelling it as inter-ethnic violence, which misses the crucial dimension that invokes toxic notions of masculinity and its connections to political participation.

Sexual violence was pervasive after the elections, against both women and men, and some of it can be attributed to the breakdown of law and order in Kenya at this time.⁴⁴ But forced circumcisions are more specific, and cannot be simply attributed to the prevailing chaos. Further, while political violence often degenerates into sexual violence, it typically takes the form of contestations over power exercised by rape against women. In this context, the specific nature of the violence emphasizes a bodily distinction between ethnic groups; it is a political pissing contest played out on men's bodies. As Brigid Inder of Women's Initiatives for Gender Justice notes, forced male circumcision in the Kenyan context was 'intended as an expression of political and ethnic domination by one group over the other, and was intended to diminish the cultural identity of Luo men'.⁴⁵ Similarly, as Beth Maina Ahlberg and Kezia Muthoni Njoroge describe, 'in the case of forced circumcision, the meaning of the ritual was reversed and used to humiliate, traumatize, inflict lasting bodily harm, intimidate and hence emasculate the men in question'.⁴⁶ When these circumcisions are situated in their historical context, the cultural significance of sexual violence becomes even more apparent.

The Kikuyu militias who carried out the circumcisions are called Mungiki, which translates as 'masses' or 'multitude'. They are often referred to as a tribal sect or gang, though they were originally formed as a political group agitating for the rights of poor Kenyans. The organization has been around since the 1980s, and has been involved in violence since at least 2002, known particularly for mutilating the bodies of its targets by cutting off heads or limbs. The organization has specific rituals for joining, including 'stripping naked, smearing the body with hot oil, and circling a fire several times'.⁴⁷ The cultural symbolism of nudity is particularly important because what marks the Kikuyu is their circumcision, something only visually evident in nakedness. In post-election reports of violence in 2007, much of the carnage was attributed to the Mungiki, but media reports often simply referred to mutilation rather than the specific forms of sexual violence in which members of the group engaged. The BBC, for example, described the 2007 activities of the Mungiki in Kenya as follows: 'Police say the victims of the sect members were abducted and tortured before being hacked to death and their bodies dismembered'.⁴⁸ However, the notion that forced male circumcision is a type of violence similar to any other dismemberment or mutilation disregards the gendered cultural context from which this violence stems, focused on the Kikuyu

⁴⁴ Wanyeki, 'Lessons from Kenya', p. 95.

⁴⁵ Quoted in Corey-Boulet, 'In Kenya'.

⁴⁶ Ahlberg and Njoroge, "'Not men enough'", p. 455.

⁴⁷ Beatrice Wamuyu, 'Two decades of Mungiki's cold blooded killings', Standard Digital News, 4 Sept. 2013, http://www.standardmedia.co.ke/?articleID=2000092685&story_title=two-decades-of-mungiki-s-cold-blooded-killings&pageNo=2.

⁴⁸ 'Profile: Kenya's secretive Mungiki sect', BBC News, 24 May 2007, <http://news.bbc.co.uk/2/hi/africa/6685393.stm>.

idea that circumcision is a prerequisite rite for manhood, and that therefore their tribal rivals are not fit to be political leaders according to gender and adulthood norms. Mutilation is a tool of war for the Kikuyu, designed to be degrading for communities who don't practise circumcision.⁴⁹ Indeed, a recruiter for the Mungiki confirmed several forced circumcisions of Luo men and noted that the attacks were simply revenge against the Luos, referring to protests largely by Luos in contesting the results of the election: 'They must pay for the destruction and the deaths.'⁵⁰

There have been investigations into the forced male circumcisions. The Waki Report by the Commission of Inquiry into the Post-Election Violence discussed the results of one such investigation, including laying out the evidence that forced male circumcisions and other forms of sexual violence against men and women had been carried out. The group Kenyans for Peace through Truth and Justice (KPTJ) issued a press release commending the report, which has been criticized by the political establishment and the police. The findings of the Waki Report are in direct contradiction to the statements of the police, including a much higher figure for total deaths, and statements about sexual violence. Whereas the police told the commission that there were no instances of sexual violence or gender-based violence, the report notes that in fact police often participated in the commission of this violence. KPTJ describes the results of the report in relation to forced male circumcision: 'Genital mutilation, including castration and forced male circumcision, were rampant.'⁵¹ The group recommended establishing a rapporteur on sexual violence—a proposal reflecting the importance of establishing these crimes as themselves a form of gender-based violence. However, the UN has tended to classify them as simply another form of ethnic violence rather than as sexual violence. John Holmes, the UN Under-Secretary-General for Humanitarian Affairs in 2008, acknowledged reports of genital mutilation and said that the UN was calling on 'all leaders to stop this kind of violence, to nip this kind of ethnic fighting and singling out people for attacks on the basis of ethnicity in the bud before it becomes any worse'.⁵² Describing these attacks in terms of ethnic violence is accurate; however, it also disregards an important sexual violence dimension. Both forced male circumcision and forced female clitoridectomies carried out by the Mungiki have been discursively constructed and legally categorized as ethnic violence rather than as sexual violence, a classification also evident in the ICC prosecution. This categorization occurs, too, within a Kenyan legal context that has been notoriously bad at addressing sexual violence against women. A Sexual Offences Act was passed in 2006, but its focus remains on penetrative rape of women, performance of indecent acts with children or animals, and regulation of incest.⁵³

⁴⁹ 'Kenyan gangs'.

⁵⁰ 'Kenyan gangs'.

⁵¹ 'KPTJ urges full implementation of Waki Report', Pambazuka News, 31 Oct. 2008, <http://www.pambazuka.org/en/category/elections/51717>.

⁵² 'Kenyan gangs'.

⁵³ See http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_127528.pdf.

The ICC and violence in Kenya

This section of the article addresses the way in which international law, specifically the ICC, has dealt with the case of the post-election violence in Kenya in 2007. Specifically, I trace how the categorization of forced male circumcisions, and sexual violence more broadly, is depicted as an evidentiary issue; and I argue that a better explanation of their categorization lies in the fact that we are just not used to telling the story of male victims of sexual violence. That is, the gender essentialisms I have discussed above constrain the international legal options, and this leads to a replication of the feminization of those victims who do come forward. I will also offer some suggestions for how international legal frameworks can more effectively account for this type of violence.

The ICC has addressed the post-election violence in 2007 in Kenya. The former Chief Prosecutor of the ICC, Luis Moreno-Ocampo, pursued charges of crimes against humanity against several Kenyans, including most famously Uhuru Kenyatta, who was elected president of Kenya in 2013 despite an ICC indictment.⁵⁴ In December 2010, Moreno-Ocampo asked that forced male circumcision be listed within the category of ‘other forms of sexual violence’, providing evidence of nine specific cases at the initial request for summonses.⁵⁵ This category is also used to include sexual slavery and forced prostitution.⁵⁶ But in March 2011, rather than charging these acts as crimes of sexual violence, the judges of the ICC decided that ‘the crime should fall under “other inhumane acts,” a separate category of crimes’ from those related to sexual violence—largely because forced circumcision does not appear on the list of prohibited acts under the Rome Statute’s provision for crimes against humanity.⁵⁷ Though forced circumcision is still considered a crime against humanity, charges of which may be brought at the ICC, and a crime that causes serious injury and suffering, it has not been considered a form of gender-based sexual violence.

This can be seen as reflecting a wider failure on the part of the ICC to address sexual violence as a crime against humanity. Though the Rome Statute does allow for prosecution of gender-based violence, and has even prosecuted rape and sexual violence in about half of the cases it has prosecuted so far, many of the charges of sexual violence end up being dismissed before trial owing to insufficient evidence

⁵⁴ The ICC indictment against Kenyatta was later dropped for evidentiary problems. Kenyatta was re-elected in August 2017, but the election results were thrown out by the Kenyan Supreme Court in early September 2017. As of the publication of this article, new elections have not yet been held. Kenyatta initially called for peace after the ruling, but then noted that if re-elected, he will resolve the problem with the judges who made the ruling. He stated: ‘As a Supreme Court, they cannot annul the wishes of the people. And we will revisit this thing.’ As quoted in Will Worley, ‘Kenyan President Uhuru Kenyatta vows to “fix” judiciary after Supreme Court election annulment,’ *The Independent*, 2 September, 2017, <http://www.independent.co.uk/news/world/africa/kenyan-president-uhuru-kenyatta-vows-fix-judiciary-supreme-court-election-annulment-a7925586.html>.

⁵⁵ Robbie Corey-Boulet, ‘Activists push for recognition of brutal crime’, Institute for War and Peace Reporting, 15 April 2011, <http://iwpr.net/report-news/activists-push-recognition-brutal-crime>.

⁵⁶ Corey-Boulet, ‘Activists push’.

⁵⁷ Valerie Oosterveld, ‘Atrocity crimes litigation year-in-review: a gender perspective’, *Northwestern University Journal of International Human Rights* 9: 3, 2011, pp. 239–66.

or questionable rulings from judges.⁵⁸ Though forensic evidence is often lacking in charges of sexual violence, which frequently rely solely on testimony, this is also the case with many other charges of crimes against humanity brought before the ICC. The 'lack of evidence' rulings derive not from lack of evidence itself, but from a failure on the part of the prosecution to make their case with the evidence they do have.⁵⁹ That is, the recategorization of these acts occurs because our frameworks are unable to account for sexual violence against men, not because there is no evidence of such violence. Indeed, defining these acts as sexual violence means accounting not only for the injuries and suffering caused, but also for the larger political and ethnic significance, the 'force and coercive environment', and the fact that they were 'intended as an expression of political and ethnic domination by one group over the other and ... intended to diminish the cultural identity of Luo men'.⁶⁰

Additionally, it seems that ICC prosecutors did provide evidence of these acts, and did attempt to couch them in terms of sexual violence. Even in pre-trial hearings, ICC prosecutor Adesola Adebeyejo outlined male circumcision in the context of other forms of sexual violence, including the rape of women. She argued: 'Luo men were forcibly circumcised, others castrated in front of their families in a move meant to degrade and deprive the victims of their dignity.' Citing approximately 60 specific cases, she also noted that the cases were under-reported because victims continued to fear for their safety. 'Forced nudity, mutilation of sexual organs and violation of privacy of the victims were designed to destroy their masculinity and force non-locals to flee.'⁶¹

The problem, then, is not an evidentiary one, but rather a perception that specific forms of sexual violence do not constitute sexual violence—a perception which frames the legal debates and proceedings in the Kenyan and other cases. Indeed, these same issues surfaced in the ICTY; here, the case of Dusko Tadic is exemplary. Part of the case against Tadic involved evidence that he had forced male detainees to perform oral sex on one another and to mutilate one another's genitals. However, these acts were prosecuted not as sexual violence but as 'torture' or 'other inhumane acts',⁶² the same framing as in the Kenya ICC cases. These frameworks, engendered (literally) within a human rights paradigm that equates femininity with vulnerability, cause problems not only in respect of women's agency, but also for male victims of sexual violence. When acts of sexual violence are coded as other types of violence, it makes it much more difficult to track the number of acts of sexual violence that are actually occurring, and to recognize instances of male vulnerability in global politics. That is, so far from this being an evidentiary issue, the fact is that we are just not used to telling this type of story.

If the ICC is going to address the post-election violence in Kenya in 2007 with court cases, it needs to establish a precedent for addressing sexual violence against

⁵⁸ 'Kenya: plea to ICC'.

⁵⁹ 'Kenya: plea to ICC'.

⁶⁰ 'Kenya: plea to ICC'.

⁶¹ Kimutai, 'Mungiki raped'.

⁶² Manivannan, 'Seeking justice', p. 662.

both women and men directly, and not shifting some forms of this violence to the 'other inhumane acts' category. The latter option simply serves to reinforce gendered notions that only women and children can be victims of sexual violence, rather than acknowledging that men can also be victims of such violence, and stand in need of protection by and legal recourse to the international community and domestic and international justice and prosecutorial systems.

Moreover, labelling these acts as sexual violence and pursuing them via prosecution in the ICC would deter potential perpetrators of similar forms of violence in Kenya and elsewhere by making it clear that the international community takes them seriously. As Judith Okal, an officer at the Federation of Women Lawyers in Kenya, notes, forced male circumcision does cause great injury, but it is the power dominance element that makes it a crime of sexual violence, similar to rape. 'If it's not classified as a sexual crime, then it's not getting the weight it deserves,' Okal argues.⁶³ The legal dimension becomes particularly significant because until 2006, male rape fell under a rarely enforced portion of Kenya's penal code dealing with 'unnatural offences'.⁶⁴ Since the passage of the Sexual Offences Act 2006, there are legal mechanisms in place to address rape of men and boys. But there are still no laws against forced male circumcision, despite, as Robbie Corey-Boulet notes, 'the fact that tribes whose menfolk are not circumcised have been vulnerable to the crime since long before the 2007 poll'.⁶⁵

There remain threats of similar forms of sexual violence targeted at men in more recent Kenyan elections, such as those of 2012, when rhetoric implying violence was widely used by political officials. Mwangi Kiunjuri, a Kenyan assistant minister for public works, gave a speech criticizing Odinga to an audience of Kikuyu, in which he said: 'Let me tell you, *kihii*s are not invited to dowry negotiations because, as you know, boys will always take time to sing their play songs. A *kihii*'s goings are only ended when he faces the knife.'⁶⁶ Using the language of *kihii*s was designed to arouse the crowds, as this word is considered an insult of the highest order to a Kikuyu man. Grace Wangechi noted that 'if you call a Kikuyu man that, you're dead—literally', and that 'just that word alone is more than enough to cause chaos in the country'.⁶⁷ Similarly, at a February 2011 political rally, Uhuru Kenyatta, at the time Kenya's finance minister, made comments criticizing Odinga's ODM for opposing some of Kibaki's political appointments, saying: 'They think that Kibaki is their uncircumcised boy? That he does not have his own head to make his own decisions?'⁶⁸ Such rhetoric again draws on notions of manhood as equated with qualified political participation.

⁶³ Corey-Boulet, 'Activists push'.

⁶⁴ This specific language calls attention to an underlying issue at the heart of sexual violence against men: homophobia. Male victims hesitate to come forward not only because their vulnerability is deemed unmasculine, but also because of what this implies and invokes with regard to homosexuality. Though a fuller discussion is outside the realm of this article, the context of homophobia does play a role in the assertion of particular understandings of masculinity as discussed here. It may play a role in both the domestic context and in terms of the international response.

⁶⁵ Corey-Boulet, 'Activists push'.

⁶⁶ Corey-Boulet, 'In Kenya'.

⁶⁷ Quoted in Corey-Boulet, 'In Kenya'.

⁶⁸ 'Kenya: plea to ICC'.

Such threats indicate that this is a continuing problem, not an isolated incident in 2007. As Agnes Leina, programme manager at the Coalition on Violence Against Women in Kenya, notes, ‘a sexual violence classification would also raise awareness about the crime and thus do much to prevent its recurrence. “It will be very beneficial because every election forced male circumcision occurs,” she said. “People are living in fear of it.”’⁶⁹ Additionally, legal recourse may be the best option for male victims of sexual violence, given social gender norms. Beyond deterring attacks, classifying forced circumcision as sexual violence would open opportunities for victims to seek psychological treatment for their trauma and physical treatment for their injuries without the stigma associated with being a male victim of violence. Judith Okal argues that if there is no law specifically mentioning forced male circumcision, this ‘discourages survivors from seeking comprehensive treatment’, especially given the stigma associated with male circumcision among groups who do not practise it, and notes that this is because ‘in African culture we grow up thinking that a man is absolute’. The more we can encourage international and domestic legal frameworks to account for male victims, the less such victimhood need call into question notions of masculinity.⁷⁰ It is our gender norms about men’s inviolability that make it difficult to conceive of male circumcision as sexual violence; the more we are able to incorporate this conception into domestic and international legal frameworks, the more we are able to rethink gender-based understandings about violence and focus on combating it.

Conclusions

The examples presented in this article clearly demonstrate that there is more work to be done in conceptualizing and prosecuting sexual violence, particularly against men. Gendered norms, highlighted by scholars such as Charli Carpenter, become particularly salient given the inability of many legal frameworks to conceive of forced male circumcision as sexual violence against men. In the case of Kenya, this has important implications for how prosecution of violence is addressed at both domestic and international levels. Incidents of forced male circumcision in Kenya ought to be understood within a sexual violence framework rather than relegated to the less precise category of ethnic violence. In this case, circumcision is closely bound up with views of masculinity. Those Kikuyus guilty of forcibly circumcising, and sometimes castrating, members of the Luo ethnic group do so with the intention of humiliating and emasculating them. Understanding these crimes as forms of sexual violence is important in order to properly account for the intentions behind them and the effects on the victims, and to provide appropriate means of redress to the latter.

Ultimately, the conclusion to be drawn from these cases is that adult men can be and are victims of forced sexual violence, and that paying attention to this is part and parcel of addressing gender violence in general. This is particularly important

⁶⁹ Corey-Boulet, ‘Activists push’.

⁷⁰ ‘Kenya: plea to ICC’.

given the potential for these and similar acts to occur elsewhere, as noted above. Indeed, there have been cases of forced male circumcision in Kenya since the post-election violence I have described here, as well as other cases that raise cause for concern in South Africa, Sudan, Indonesia, Uganda and elsewhere.⁷¹ Indeed, as Anjali Manivannan argues, taking the male experience of sexual violence more seriously may help engage men with issues of sexual violence more generally, thus also helping to eliminate violence against women.⁷²

This article has argued that we need to take gender seriously in order not only to understand the ethnic violence in Kenya in 2007 and 2008, but also more generally to influence the evolution of international law. Ultimately, as frameworks of international law and human rights shift to incorporate sexual violence against both women and men, and as the ICC increases its focus on sexual and gender-based crimes,⁷³ it is increasingly important that these frameworks be applied in such a way as to take seriously sexual violence of all kinds. The ICC relabelling of the Kenya forced circumcisions represents a step backwards, because it subsumes sexual violence under a broader category of ethnic violence, rather than acknowledging that when violence takes on gender-specific or sexual dimensions, the solution must be a broad, legally based approach that addresses cultural gender understandings and the normalization of particular gender roles. Gender essentialisms obstruct such a mission by preventing the classification of the Kenyan cases as important examples of sexual violence carried out within wider contexts of violence. Many have been critical of the ICC for being slow to address sexual violence against women in the form of rape. It has been the intention of this article to argue that this reticence is part and parcel of a larger problem, and to demonstrate that gender essentialisms such as taking for granted vulnerabilities and inviolabilities alike hamper the ability of the international community to take all forms of sexual violence seriously. By giving voice to these under-recognized victims and examining the legal frameworks at issue, we can begin to reconsider these policies and the way in which they are implemented in international courts.

⁷¹ For the four countries mentioned, see, respectively, Meel Banwari, 'Dangerous to mix: culture and politics in a traditional circumcision in South Africa', *African Health Sciences* 15: 1, 2015, pp. 283–7; 'Sudan: reports of Catholic residents of Khartoum or elsewhere in Sudan being forcefully converted to Islam', Immigration and Refugee Board of Canada, 19 Oct. 2001, <http://www.refworld.org/docid/3df4bea71c.html>; Lindsay Murdoch, 'Terror attacks in the name of religion', *Sydney Morning Herald*, 27 Jan. 2001; 'Bagisu flee circumcision', *The Monitor*, 25 Aug. 2004, <http://allafrica.com/stories/200408250493.html>.

⁷² Manivannan, 'Seeking justice', p. 642.

⁷³ Rosemary Grey, 'Gender-based persecution on the International Criminal Court's radar', *IntLawGrrls*, 6 Jan. 2017, <https://ilg2.org/2017/01/06/gender-based-persecution-on-the-international-criminal-courts-radar/>.