



CIVIL SOCIETY SAYS NO! TO FURTHER EXTENSION OF TJRC MANDATE

Kenyans for Peace, Truth and Justice (KPTJ) together with the Kenya Transitional Justice Network wish to express our serious concern with the failure of Truth, Justice and Reconciliation Commission to release its report on August 3rd 2012 as mandated by the Law.

The Truth, Justice and Reconciliation Commission (TJRC) was established as part of the Agenda Four of the National Reconciliation and Dialogue Accord, with the objective of promoting peace, justice, national unity, healing, reconciliation and dignity among the people of Kenya, a mandate derived from the TJRC Act of 2008.

The Commission was initially established to operate for a period of two years, expiring in November 3rd, 2011. However, the Commission then sought two further extensions to May 3rd 2012 and to August 3rd 2012 acting in breach of its constituting Act. The move was not only unlawful but also procedurally flawed as it was not channeled through the National Assembly as stipulated in the TJRC Act but rather by a letter to the Ministry of Justice, National Cohesion and Constitutional Affairs. An extension was nonetheless granted, in clear contravention of the law and amid protests from the civil society.

The Law requires that on 3rd August 2012 the TJRC hand over a report in line with Article 48 of the TJRC Act which states that;

the Report shall:

(a) summarize the findings of the Commission and make recommendations concerning the reforms and other measures, whether legal, political, or administrative as may be needed to achieve the object of the Commission;

(b) make recommendations for prosecution; reparations for the victims;

(c) recommend specific actions to be taken in furtherance of the Commission's finding;

(d) recommend legal and administrative measures to address specific concerns identified by the Commission;

(e) make recommendations on the mechanism and framework for the implementation of its recommendations and an institutional arrangement in that connection.

We are appalled by the failure of the TJRC to fulfill its mandate by not delivering a report on the 3rd of August 2012 and find that their actions are **illegal**, inexcusable, reprehensible, unacceptable and tantamount to a **betrayal of the people's trust**.

We as civil society have followed keenly the work and undertakings of the TJRC in an effort to ensure that the accountability sought by Kenyans for historical injustices comes to fruition. It must not be forgotten that the victims of historical injustices, many, who testified before the commission eagerly awaited the report as they believed that this would lend credence and acknowledgement to terrible injustices they have suffered. Further, Kenyans at large believed that the commission's report and recommendations would eliminate any future injustices and abuse of varied human rights.

We at the very least expected that the commission who has been plagued with credibility issues from the onset, would aspire to restore the people's faith through delivery of a timely, substantial report that would ultimately serve to give closure to the victims of historical injustices.

We are taken aback that just 7 days before the deadline of 3rd August 2012, during a meeting convened by the Constitution and Reform Education Consortium (CRECO) on Friday 27th July 2012, the Director of Legal affairs of the TJRC, one Tom Chavangi now Acting CEO informed the stakeholders present that

"The TJRC are in Mombasa Serena finalizing the report.....we expect to deliver the report come August 3rd 2012..... the report writing process ongoing and a report is what we should expect on the 3rd of August should everything remain constant...."

We are stunned by sudden turn of events and dismayed at the fact that not only has TJRC failed to release its report and recommendations but remains silent. We, on behalf of the people of Kenya, **demand the immediate release of the findings of the TJRC and its recommendations as the mandated by the law.**

We are outraged at the perpetrators of impunity in cabinet who, out of personal interest and self preservation purportedly approved the extension of the moribund TJRC. This was reported in the dailies August 4th August 2012. We urge the National Assembly to reject their immoral and illegal extension which is meant to deny victims and Kenyans to right to truth, justice and eventual peace.

We note that over and above the commission is technically and administratively incapacitated to purport to continue with its mandate beyond the submission of its final report. This is because the CEO and two commissioners have since left. We have it on good authority that the departure of the officials from the commission was because they believed the work of the commission was done.

We believe the delay to release the report reeks of political mischief. The calculation here is that is that the extension seeks to release the report after the next general election. Surely this is to protect possibly named perpetrators from complying with Chapter 6 of the constitution.

It is in light of the above and behalf of Kenyans that we demand:

- 1. The commission to release and submit its report its report and recommendations immediately.**
- 2. The TJRC wind up immediately & hand over to the Ministry of Justice and Parliament as required by law.**
- 3. The National Assembly to reject the TJRC Bill seeking to extend the life of the TJRC commission.**
- 4. We call upon the ethics and anti corruption commission to investigate the gross expenditure that the TJRC has incurred due to these never ending extensions.**

Finally, we are determined to use all means within the law, including moving the courts, to protect the public interest and compel the TJRC to release its report as mandated. We remind Kenyans that the failure to address historical injustices over the years plunged Kenya into chaos in 2007. A recurrence of that chaos is a risk we cannot afford to take as a nation.

(ends)

Nairobi, August 5, 2012.