Final Report - TJRC Report (Newspaper Supplement)

Truth, Justice, and Reconciliation Commission

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INTRODUCTION

The Truth, Justice and Reconciliation Commission (TJRC or the Commission) was established in the wake of the tragic events of the 2007/2008 Post-Election Violence (PEV).

The Commission has produced its Report as the culmination of a process that lasted four years and took the Commission to all regions of the country.

The violence, bloodshed and destruction of the PEV shocked Kenyans into the realisation that their nation, long considered an island of peace and tranquility, remained deeply divided since independence from British colonial rule in December 1963. It prompted a fresh opportunity for the country to examine the negative practices of the past four and half decades that contributed to a state that still holds sway in Kenya: normalization and institutionalization of gross violation of human rights, abuse of power and misuse of public office.

In the aftermath of the 2007/2008 PEV, the Kenya National Dialogue and Reconciliation (KNDR) process resulted in the adoption of among others, the Agreement on the Principles of Partnership of the Coalition Government (Coalition Agreement) on the basis of which, the National Assembly enacted the National Accord and Reconciliation Act on 18 March 2008. The National Accord paved the way for the establishment of a coalition government with a President, Prime Minister and two Deputy Prime Ministers.

As part of the KNDR process, an agreement for the establishment of a truth, justice and reconciliation commission (TJRC Agreement) was also adopted. Pursuant to the TJRC Agreement, the National Assembly enacted the Truth, Justice and Reconciliation Act (TJR Act) on 23 October 2008. The Act received Presidential Assent on 28 November 2008 and came into operation on 17 March 2009.

In terms of the TJR Act, the Commission was inaugurated on 3 August 2009. The broad mandate of the Commission was to inquire into gross violation of human rights and historical injustices that occurred in Kenya from 12 December 1963 when Kenya became independent to 28 February 2008 when the Coalition Agreement was signed.

METODOLOGY AND PROCESS

The work of the Commission was structured into four mutual and overlapping phases: statement-taking, research and investigations, hearings and report writing. Civic education was conducted alongside these activities.

Statement taking: The Commission designed a Statement Form to capture information from witnesses. The Statement Form was designed to ensure the gathering of as much information as possible about gross violations of human rights. The Commission undertook an initial statement taking exercise in Mt Elgon in May and June 2010. This was a pilot project which the Commission used to get feedback from victims and other witnesses about the statement-taking methodology, including the Statement Form. The national-wide statement taking exercise was officially launched on 9 September 2010 and lasted five months. It was anticipated that some individuals would be unwilling or unable to record statements for a period of one month. A total of 996 statements were collected. The draft was subsequently revised to incorporate insights from the pre-testing exercise. Statement taking exercise and public hearings to accommodate persons with disabilities. The experiences of PWDs are reflected across the various Chapters of this Volume.

Volume III focuses on issues relating to national unity and reconciliation in Kenya. The Commission was mandated to inquire into the causes of ethnic tension and make recommendations on the promotion of healing, reconciliation and coexistence among ethnic communities.

The final volume of the Report - Volume IV - provides a catalogue of the findings and recommendations of the Commission. Included in this volume is the Commission’s recommendation relating to the implementation mechanism and reparation framework.

THEMATIC OVERVIEWS

Political History: A general outline

In order to contextualise gross violations of human rights and historical injustices that occurred during the mandate period, the Commission divided the political history of Kenya into four distinct epochs. These epochs correspond with the four political administrations that governed the country prior to and during the Commission’s mandate period:

- President Daniel arap Moi’s era (1978 to 2002);
- President Jomo Kenyatta’s era (1963 to 1978);
- British colonial era (1895 to 1963);
- President Moi’s era (1978 to 2002); and
- President Mwai Kibaki’s era (2002 to 2008).

A review of the colonial period by the Commission revealed a litany of offences and atrocities committed by the British administration against the people now known as Kenyans. These violations included massacres, torture, arbitrary detention, and sexual violence, most of which were committed, initially, when the British government forced its authority on the local population, and later, when it violently sought to quash the Mau Mau rebellion. From 1952 onwards, the British administration established detention camps in which suspected members of Mau Mau and/or their sympathisers were tortured and ill-treated. Others were detained in restricted villages where they were used as forced labour under harsh and inhuman or degrading conditions. The colonial government was also responsible for the displacement of thousands of people from their lands. More than 2 million hectares of land were taken away from the original inhabitants. This displacement created the conditions that remain the cause and driver of conflict and ethnic tension in Kenya today.

On 12 December 1963, Kenya gained independence from British rule. Independence came with high expectations and hopes. It signaled an end to practices that had been institutionalised under British rule; the end of racial segregation, detention camps, torture, massacres, unlawful killings and similar practices that had been institutionalised under colonialism. To the citizens of a new free nation, independence meant the return to lands from which they had been forcibly evicted and of which they had been dispossessed in order to pave the way for British settlers. It was supposed to be the beginning of political and economic emancipation; the start of respect for the rule of law, human rights and dignity and the laying down of the foundations and tenets of democracy. Many envisioned a newly invigorated, united nation.

These expectations never materialized. President Kenyatta made no real changes to the structure of the state. Nor did he commit to or put in place mechanisms to redress the land problems that had been created by the colonial administration. Instead, President Kenyatta embarked on consolidating his power. Under his administration, any political dissent was met with quick rebuke and reprisals in effect forcing the populace into a silencing of fear. Reprisals included harassment,各种形式 of intimidation, attacks on the person, detention and even assassination. Many found themselves in exile for fear of their lives and to avoid the heavy hand of Kenya's administration. It was also during President Kenyatta's administration that Kenya waged a war in northern Kenya to quash a desire by residents of this region to secede to Somalia. This war has come to be popularly known as the 'Shifty War'. State security agencies committed various forms of atrocities during the Shifty War and the Commission has dedicated a chapter in this Report...
that documents those atrocities. Under President Moi the status quo remained for a couple of years before becoming notably worse after the coup attempt of 1 August 1982. In the aftermath of the coup, members of the Kenya Air Force were rounded up and transported to prison facilities and other locations where they were tortured and subjected to inhuman and degrading treatment.

Thereafter, President Moi stepped up measures aimed at controlling the state and further consolidating his power. He filled government positions with loyalists, mainly from his own Kalenjin community. His government, which had in June 1982, amended the constitution to make Kenya a de jure one party state, removed security of tenure for constitutional office holders such as judges. The patterns of violence that started under Kenyatta continued under President Moi’s administration. Notably, members of state security agencies routinely committed atrocities against a people they had sworn to protect. Security operations, particularly in Northern Kenya often resulted in the massacres of innocent citizens. Almost without exception, security operations took the following forms: torture and ill-treatment, rape and sexual violence, looting of property and burning of houses. These systematic attacks against civilians have all of the attributes of a crime against humanity.

When movements arose to advocate for opening up of the democratic space and respect for human rights, President Moi’s government unleashed a reign of terror. Between 1986 and 1997, hundreds of individuals were detained and tortured because they were suspected to be members of illegal organizations. The famous Nyayo House torture chambers were designed and built during this period specifically for the purpose of terrorizing those who were critical of, or perceived to be critical of, the established regime.

In 1991, in response to local and international pressure prompted by the end of the Cold War, President Moi yielded to demands for a multi-party state. However, with the advent of multi-party politics, elections began to be identified with violence. Ethnicity became an even more potent tool for political organisation and access to state resources. Like his predecessor, President Moi lacked the commitment to address grievances related to land. Instead, irregular and illegal allocation of land became rampant during his era in power.

In December 2002, KANU was dislodged from power by NARC under the leadership of President Mwai Kibaki. As a political party, NARC came to power on a platform that promised to curb and ultimately eliminate the political transgressions and human rights violations that had become so common during the 39 years of KANU’s rule. NARC also pledged to address and rectify historical injustices. True to its commitment and in response to concerted calls for an official investigation of human rights violations committed during the KANU government, the NARC government initiated numerous legislative and institutional reforms and a range of activities aimed at redressing past injustices.

However, it was not long before autocratic tendencies and KANU-like practices began to emerge in the Kibaki administration. An informal coterie of powerful individuals who were keen on promoting narrow and regional interests formed around the President. Like President Moi before him, President Kibaki purged the public service of his predecessor’s nominees and filled it with people from his Kikuyu community and the larger Kamba community. The administration paid lip service to the struggle against corruption.

In 2005, all pretensions by the Kibaki administration that it was pursuing reforms and a transitional agenda faded after the rejection of the Proposed New Constitution of Kenya in 2005 by the majority of Kenyans.

The period leading up to the 2007 General Election was characterised by intense violent activities by militia groups, especially the Mungiki sect and Sabaot Land Defence Force (SLDF). The government responded to the violence with excessive force. In effect, the General Election of 27 December 2007 were conducted in a volatile environment in which violence had been normalised and ethnic relations had become poisoned. Fertile ground had been prepared for the eruption of violence. Therefore, when the results of the Presidential Election were disputed, and both PNU and ODM claimed victory, violence erupted.

The scale of the post-election violence (PEV) was unprecedented. It lasted for a period of two months and substantially affected all but two provinces in the country. It is estimated that 1,133 people were killed, thousands assaulted and raped, hundreds of thousands displaced from their homes, and property worth billions of shillings destroyed. It was one of the darkest episodes in Kenya’s post-independence history.

Security Agencies: The police and the military

The police and the military forces are at the centre of Kenya’s history of gross violations of human rights. While other agencies of the state were responsible for historical injustices and gross violations of human rights during the mandate period, security agencies were both primarily responsible for many of the acts of commission documented in this Report, as well as the acts of omission (the failure to provide security) that allowed many of the violations committed by non-state actors to occur.

Across the country, the Commission heard horrendous accounts of atrocities committed against innocent citizens by the police and the military. The history of security operations conducted by these two institutions, either jointly or severally, is dominated by tales of brutal use of force, unlawful killings (sometimes on a large scale), rape and sexual violence, and burning of property. In security operations, the police and the military often employed collective punishment: the indiscriminate rounding up of individuals in a specific area, then brutally punishing them, all with the expectation that this would yield the desired results in terms of security. Thus, since independence, the police and the military in Kenya have been viewed and invariably described as rogue institutions; they are still feared and seen as perennial violators of human rights rather than protectors of the same.

NYAYO HOUSE TORTURE VICTIMS NAME ON WALL

In this regard, the Commission sought to trace the origins of practices employed by security agencies during security operations. What emerged is that the practices adopted by the police and military forces in independent Kenya are starkly similar to those employed by the same forces during the colonial period.

In essence, Independent Kenya inherited a police force that was deeply and historically troubled. From the 1960s right through to the late 1950s and early 1960s, the Kenya police force clearly structured itself around the policing needs of a small and politically powerful elite and racial minority. Kenya’s police force was from the outset built to cater to these privileged few. When, however, the Kenya Police Force did encounter African populations it was with a force and devastating violence. Throughout the temporal period of the Commission’s mandate this resort to brutality by the security agencies never changed. The police force remained a law unto itself. The Kenya Police Force of today largely resembles the Kenya Police Force of the colonial period: narrow in outlook, unclear in mission and violent in tendency.

The history of the military paints a similarly grim picture. During the colonial period, and especially during the emergency period, the military was engaged in the screening and interrogating of people in order to extract information from them concerning Mau Mau. It is from these twin processes of screening and interrogation that the most astonishing evidence of widespread and institutionalized torture has emerged. The military would continue to use similar brutal tactics way into the post-independence era and as recently as March 2007 during Operation Okoa Maisha in Mt. Elgon.

Shifta war

The Shifta War, waged between 1964 to 1967, represents a period in Kenya’s history during which systematic and widespread violation of human rights (including mass killings) of Kenyan citizens occurred. Officially, the death toll stands at 2,000. Unofficial estimates place the death toll at 7,000. The Shiffa War acts as a bridge from the violations committed by the colonial power prior to independence and the violations committed by the newly independent government. The War arose out of a long history of political unrest in Northern Kenya where ethnic groups resisted centralised colonial rule. After independence state security agents alongside military personnel were deployed in what was called the Northern Frontier District to quell the continuing resistance.

Witness testimonies before the Commission brought to the surface the long history of violation of human rights and related activities in Northern Kenya. From the colonial days, Northern Kenya had been administered differently from the rest of the country. Travel and movement restrictions were imposed and administrators were given extraordinary powers to arrest and detain members of what the state referred to as ‘hostile tribes’.

The Commission did not get much information about the war itself because of the secrecy around military operations and the government’s reluctance to provide the information in its possession. However, individuals and communities affected by the Shiffa war submitted memoranda and information to the Commission, which enabled it to set out the broad characteristics of the war. The Commission established that the Shiffa War was characterised by unimaginable brutality committed by state security agents, mainly the Kenya Army. Mass killings featured prominently in the witness testimonies and narratives. Pastoralist communities lost almost 90 percent of their livestock through heavy handed strategies in which livestock were shot dead or confiscated. Many residents of the region trace the high levels of poverty experienced by communities of Northern Kenya to the excesses of the Shifta War.

Women narrated horrible stories of rape and other forms of sexual violence and the military and police were reported as major perpetrators. The Commission also received testimony pointing to the fact that women were held as sexual slaves by state security agencies during the War. As a result of the Shifta War, some communities fled to Somalia to escape the violence and only returned decades later, in 2000.

As part of the Shifta War, the Kenyan government established restricted or protected villages in which residents of Northern Kenya were essentially detained and their movement severely restricted. This vilLAGISATION programme was eerily reminiscent of the detention camps created during the colonial period. The conditions in these villages were squalid and diseases such as dysentery and tuberculosis were common.

The signing of a Memorandum of Understanding in Arusha, Tanzania on 28 October 1967 between the governments of Kenya and Somalia marked the formal end of the war. Witnesses complained that they had no idea what was decided during the bilateral negotiations between the Somali and Kenyan governments as the contents of the agreement were never revealed to the people of the Northern Kenya, including the citizens residing in the north.

The Commission found that the Kenyan government made a deliberate effort to cover up abuses committed in connection with the Shifta War, and enacted the Indemnity Act in order to protect government officials for accountability for wrongful acts committed during the conflict. As such, the Commission has recommended the repeal of the Indemnity Act within nine months of the issuance of its Report. The Commission has also recommended that the Arusha Agreement be made public and be widely disseminated in Northern Kenya. Further, the Commission has recommended reparation for victims of Shifta War and the establishment of a public memorial to commemorate the victims of the War.
The history of massacres in Kenya predates colonialism in Kenya. There were inter and intra-ethnic killings, as illustrated by the conflict wars of the 1800s. This was the context in which the colonialists entered the scene and opened fresh horizons for mass violence.

The Commission studied the history of massacres in Kenya to identify broad trends and patterns of mass violence that have recurred throughout Kenya’s history. The first properly documented massacre in Kenya’s colonial past was the Kedong Massacre of 26 November 1899. Other massacres include those committed in the context of the Giriama Rebellion of 1912-1914, and the Kollowa Massacre of 1926. Other massacres were committed during the Mau Mau uprising between 1952 and 1959. In this regard, the Lari and Hola Massacres stand out. In all these massacres, the colonial state was present and was always apologistic. Indeed, the colonial state always tried to minimise, cover up or flatly deny the occurrence of such mass killings.

At independence, the country was blood-drenched with a history of massacres and entered its future with a language that was to affect future events. The Commission’s research, investigations and hearings revealed that the Kenya state has in the Kenyan history have occurred in Northern Kenya and have always occurred in the context of the level of security operations. The Commission has documented the following massacres committed by state security agents: Bulla Karatasi Massacre; Wagalla Massacre; Malka Mari Massacre; and Lotiriri Massacre. To date, no government official has been prosecuted or otherwise publicly held to account for these atrocities. The Commission also focused on massacres committed by non-state actors: Turbi Massacre, Murutwa Massacre, and Loteleleit Massacre. The primary findings of the Commission in relation to the

**Bulla Karatasi Massacre:**
The Commission found that the security operation conducted in Garissa in November 1980 resulted in the massacre of hundreds of civilians. Numerous other atrocities were committed by state security agents including torture, brutal beatings, rape and sexual violence, burning of houses and looting of property. The Commission found that the atrocities committed during the security operation qualified as crimes against humanity. Moreover, the Commission found that the North Eastern Provincial Security Committee (chaired by Benson Kaaria), Garissa District Committee and the Ministries for Internal Security (O.G. Kafulu) at the time of the massacres and the establishment of memorials at the site of such massacres. The Commission further recommended that individuals identified as responsible for planning, authorizing and implementing of security operations that resulted in massacres be further investigated to determine any criminal culpability on their part, if any, and that they should not hold public office in Kenya’s new constitutional dispensation.

**Wagalla Massacre:**The Commission found that the security operation conducted in Wagalla, Wajir, in February 1984 resulted in the massacre of hundreds of civilians. Numerous other atrocities were committed by state security agents including torture, brutal beatings, rape and sexual violence, burning of houses and looting of property. The Commission found that the atrocities committed during the security operation qualified as crime against humanity. The Commission was unable to determine the precise number of persons killed in the massacre but found that a large number died, possible close to a thousand. As such, the official figure of 57 given by the state grossly underestimated the number of people killed at Wagalla and is an example of the generally thoughtless manner in which the state has traditionally treated massacres committed by its own agents. The Commission found that the Wajir District Security Committee, North Eastern Provincial Security Committee, and Kenya Intelligence Committee bear various levels of responsibility for the operation and the ensuing massacre and atrocities.

**Malka Mari Massacre:**
The Commission found that the 1981 security operation in Malka Mari, Mandera, resulted in the massacre of hundreds of civilians. The security operation was conducted by the police and women were raped and were subsequently shunned in the community. Others suffered serious injuries. The Commission found that the state has maintained an official silence over the massacre.

**Lotiriri Massacre:**
The Commission found that the security operation conducted in West Pokot District, Northern Kenya between 22 February and 22 May 1984 by state security agents (mainly the Kenya Army) resulted in the massacre of individuals. Numerous other atrocities were committed during the security operation including torture and sexual violence.

The Commission has recommended the provision of reparation for families of victims of massacres and the establishment of memorials at the site of such massacres. The Commission found that the assassination of Pio Gama Pinto was motivated by ideological differences that were at the heart of the global Cold War but also mirrored in domestic Kenyan politics. The Commission found that the state was complicit in the assassination of Pio Gama Pinto, Tom Mboya, and Josiah Mwangi Karuki, Robert Ouko

**Pio Gama Pinto:**
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**Tom Mboya:**
The Commission found that Tom Mboya was assassinated for his political beliefs and the perception that he posed a threat to the political establishment. The Commission did not receive any credible evidence that government officials were involved in his assassination and in the subsequent cover up. The Commission found that the state was complicit in the assassination of Pio Gama Pinto and that government officials were involved in his assassination and in the subsequent cover up. The Commission found that the state was complicit in the assassination of Pio Gama Pinto, Tom Mboya, and Josiah Mwangi Karuki, Robert Ouko

**Josiah Mwangi Karuki:**
The Commission found that Josiah Mwangi Karuki was assassinated for political reasons. Based on evidence, the Commission found that state officials, including members of the police and the Special Branch, were directly involved in the assassination of Josiah Mwangi Karuki. The Commission further found that the state was complicit in the assassination of Pio Gama Pinto and that government officials were involved in his assassination and in the subsequent cover up. The Commission found that the state was complicit in the assassination of Pio Gama Pinto, Tom Mboya, and Josiah Mwangi Karuki, Robert Ouko

**Robert Ouko:**
The Commission found that Robert Ouko was assassinated and that government officials were involved in his assassination and in the subsequent cover up. The Commission found that the state was complicit in the assassination of Pio Gama Pinto, Tom Mboya, and Josiah Mwangi Karuki, Robert Ouko

**Crispin Odihambo Mbai:**
The Commission found that Crispin Odihambo Mbai was assassinated because of his political views related to his chairing of the Devolution Committee of the National Constitutional Conference. The Commission further found that the state was complicit in the assassination of Pio Gama Pinto, Tom Mboya, and Josiah Mwangi Karuki, Robert Ouko

**Extrajudicial killings and enforced disappearances:**
The Commission found that throughout the mandate period, there was a consistent trend or pattern of state-sanctioned extrajudicial killings and enforced disappearances. The use of excessive and disproportionate force by the Kenyan police force has been a common theme running through Kenya’s history. The Commission further found that the state has, throughout the mandate period, been accountable for summarily execute individuals who were suspect criminals or members of proscribed criminal gangs such as Mungiki and SLDF. Importantly, the Commission found that police killings and enforced
disappearances of members of Mungiki and SLDF could amount to
acts of terrorism against humanity. Moreover, the Commission found that
whenver the state has been faced with allegations of extra-judicial
killings and/or disappearances, its traditional response has been
to blatantly deny these allegations and attack the credibility and
legitimacy of those making the allegations, rather than investigate
those allegations.

The Commission has, amongst others, recommended the provision of
reparation to families of victims of extra-judicial killings and
enforced disappearances.

**Detention, torture and ill-treatment**

In many ways, and despite the many challenges that it continues to
face, Kenya is a country whose democratic and
political space is relatively wide and
dynamic. At least from 2003, the state has
more often than not respected citizens’
freedoms and the recognition of the
right to association. However, it was not
always this way. The freedom that Kenyans
enjoy today is the result of many years of
activism and struggle against dictatorship,
and state repression or violence. It is a
freedom that came at a high price for
many men and women who dared criticize
or oppose Jomo Kenyatta’s and Daniel
Arap Moi’s political administrations. Many
of them were detained without trial,
tortured, and subjected to inhumane and
graging treatment. Their families were
equally subjected to untold sorrows by
state operators. Many others succumbed
to torture or were killed after undergoing
torture.

Research and investigations conducted by the Commission
coupled with the testimonies it received, shows that widespread and
systematic use of torture occurred in the following contexts:

- during the Shikia War;
- in the aftermath of the 1982 attempted coup;
- between 1982 and 1991 purposely to quell dissenting political
  voices and as part of the crackdown on Mwakenya;
- between 1982 and 1991, and as part of the crackdown on the
  February Eighteenth Revolutionary Army (FERA);
- in 1997 following a raid on a police station in Likoni;
- most recently in 2008 during Operation Ooko Maisha, a security
  operation to flush out members of the Sababot Land Defence
  Force (SLDF) in the Mount Elgon region.

On the basis of its research, investigations and hearings, the
Commission has made, amongst others, the following findings:

- systematic use of torture was employed by the Special Branch
during interrogations of detained persons in Nyayo House,
  Nyali House, police stations, prisons, and other locations.
- Nyayo House basement cells and the 24th, 25th and 26th floors
  were used for interrogations and torture after the attempted
  coup of 1982, during the Mwakenya crackdown, and the
  FERA/M crackdown, and that the state purposely designed and
  built these places for torture purposes.
- the State established a task force for the specific purpose of
  interrogation and torture of suspects. The Commission has
  recommended the prosecution of the members of the
  this task force.
- the Judiciary frequently cooperated with the prosecution and
  security forces in the commitment of violations by refusing bail
  and by admitting evidence obtained through torture. The
  judiciary was also complicit in these violations to the extent that
  they conducted trials beyond working hours.

To prevent the recurrence of torture, the Commission has
recommended the enactment of legislation prohibiting all forms of
 torture and other forms of cruel, inhuman or degrading treatment
or punishment committed both by state and non-state actors. The
Commission has also made the following recommendations:

- that the President offer a public apology to all victims of torture
  and unlawful detention and acknowledge the role of the state in
  the design and use of the Nyayo House torture cells for torture
  purposes.
- that Nyayo House be converted into a memorial after
  consultation with victims of torture.
- the establishment of a position of the Independent Inspector
  of Prisons and All Places of Detention. This office shall be
  charged with the function of inspecting prison conditions and
  investigating allegations of torture. The Office shall also be
  mandated to ensure that the Nyayo House torture cells office shall issue periodic reports to the public on the condition of
  prisons in Kenya and other matters under its mandate.

The Commission has also recommended the provision of reparations
for victims of unlawful detention, torture and ill-treatment as per
the framework described in the Chapter on Reparation Framework.

**Sexual violence**

Sexual violence is a crime that intimately impacts the victim both physically and
developing. It uses the victim’s own
sexual anatomy to dominate, suppress and control. For a long time, women
and girls believed to be the main, if not the only, victims of sexual violence. Over
the years, however, there has been acknowledgement that men and boys are also victims
of sexual violence.

The Commission received hundreds of
statements from men, and children outlining sexual violations
perpetrated by individuals and groups of
people including ordinary citizens and
state officials. A total of 1,104 statements
from adults were received in regard to
sexual violations, representing a victim count of 2,646
women and 346 men. The Commission acknowledges that due to shame and
stigma associated with sexual violence, many victims of sexual violence did not report sexual violence to
the Commission.

Recognizing that sexual offences are
ordinarily complex to investigate, the
Commission adopted specific measures
to effectively and sensitively investigate.
Firstly, investigators who had previous
experience in investigating sexual
offences and who had undergone training
on the same, including on the Sexual
Offences Act, were recruited. Secondly, a
set of guidelines outlining the appropriate
processes to be taken in investigating sexual violence
was prepared. The overall goal of the
guidelines was to ensure that survivors of sexual violence were treated with dignity.

In acknowledgement of the stigma,
shame and embarrassment associated with sexual violence, the Commission offered victims of sexual violence the option of
testing either in camera or in public. The idea was to provide victims of sexual violence with not only a platform to be heard, but
also a safe environment in which they could share their experiences freely.

The Commission also engaged the services of counselors
to offer psycho-social support before, during and after the hearings
to enable them not only to narrate their experiences but also
to cope with what they had experienced.

The primary findings of the Commission in relation to sexual violence include the following:

- sexual violence was committed throughout the mandate period,
and included gang rapes, sodomy, defilement, sexual slavery, and
other forms of sexual violence. The Commission found that sexual
violence increased during times of conflict.
- sexual violence against women was rampant during forcible
evictions conducted by the state and/or its agents. In one
particular case, the Commission received about 30 statements
from women who were raped in Kitui during an eviction referred
to as ‘Kavamba Operation’.
- there is sufficient evidence implicating British soldiers for the
rape and sexual violation of women in Samburu and Laikipia
between the 1980s and early 2000. The Kenyan government
has neither committed to nor shown any political will to investigate
allegations of rape and sexual violence committed by British
soldiers stationed in Kenya for military training.
- State security agents are responsible for the majority of cases
of sexual violence committed during conflict in Kenya.

In addition to recommending the provision of reparation for victims
and survivors of sexual violence, the Commission has recommended
the establishment of a gender violence recovery center in every
county. Moreover, the Commission has recommended the setting
up of the Office of the Special Rapporteur on Sexual Violence as
initially recommended by the Commission of Inquiry into the Post
Electoral Violence.

**Land and conflict**

For the majority of Kenyans, land is the basic, and in most cases, the
only economic resource from which they eke out a livelihood. The
ability to access, own, use and control land has a profound impact
on their ability to feed and provide for their families and to establish
tools of social and political standing in society. However,
tensions and structural conflicts related to land have simmered in
all parts of Kenya throughout the years of independence. In recent
years, many land related problems have degenerated into social
unrest and violence.

Illegal acquisition of large tracts of land from indigenous communities
during the colonial period rendered many communities at the Coast
and in mainland Kenya landless. While affected communities
expected redress through re-settlement, restoration of their land
and compensation from the Kenyatta and subsequent post-
independence administrations, the government, instead altered more land from already affected communities for the benefit
of politically privileged ethnic communities and the political elite.
This led to deeply held resentments against specific ethnic communities who benefited from resettlement at the expense of those who believe they are
the rightful owners of the land.

The Commission confirmed that land has
been and remains one of the major causes of intra and inter-ethnic conflicts in
the country. However, addressing historical and post-independence land injustices
has not been genuinely prioritized by successive governments despite the
critical importance of land to the country’s
economic development. There has
never been any sustained effort to address
land injustices that have occurred since
colonial times. The Akiwumi Commission of Inquiry established in 1998 to look into the ethnic
clashes related to the 1997 General
Election vividly demonstrated how the skewed land allocation
and ownership has fueled ethnic tension and led to violent conflicts
throughout Kenya and particularly in the Rift Valley and Coast
regions. During the mandate period, land-related grievances led to
the emergence of militia groups in some parts of the country. The
stated aims of these militia groups often relate to the occupation of
lands, and the removal by violent means, of current occupants
who they claim rendered them squatters. The Sababot, for example, took up
armed attempts to wrest the Mount Elgon region to reclaim what
they consider to be their land.

Politicians often exploit the real or perceived land injustices expected around election time, for personal gain. The dangerous
mix of land-related claims with political aspirations of specific
groups or individuals remains a tinderbox that could ignite at any
time.

The Commission found that the ‘willing-buyer, willing-seller’
tenure approach was grossly abused and is one of the major
factors causing disharmony and landlessness, especially in the
face of rising human populations.
The unresolved land injustices have led to discriminatory and exclusionary practices that work against nationalhood. The increasing feeling among the long-disadvantaged pastoral communities and the Kalenjin in particular (both herdsmen and farmers) that they should fight at all cost to reclaim their ‘stolen’ land from the rich foreign (non-Kalenjin) settlers is one example. Although no attempt was made by President Moi’s government to revoke the land settlements of President Kenyatta’s regime, it became increasingly difficult for ‘non-indigenous’ people to buy land north of Nakuru. Non-Kalenjin individuals and groups who bought parcels of land in Kalenjin-dominated areas found it hard to get them demarcated or obtain title deeds.

Negative ethnicity appears to be reflected even in the settlement of internally displaced persons; those who get resettled often come from communities able to access political power.

The litany of historical injustices relating to land involves a complex variety of permutations. Almost every type of public land was affected: from forest land, to water catchments, public school playgrounds, road reserves, research farms, public trust lands and land owned by public corporations and private individuals. Perpetrators of the injustices were equally varied and include holders of public office and government leaders at every level, the political and economic elite, church organisations, individuals and communities. Those who held sway usurped the institutions of government to their bidding including the legislature, the executive and the judiciary.

Officials who were supposed act as custodians of public land under the public trust doctrine, became the facilitators of illegal allocation, increasing landlessness and land scarcity. The practice of land grabbing in many cases resulted in violence, as squatters resisted eviction from government land that was often subsequently lost to land grabbers. State corporations became conduits for ‘get-rich-schemes’ in which public lands were transferred to individuals and then quickly bought off at exorbitant prices by state corporations.

**Economic marginalisation and violation of socio-economic rights**

The TJR Act mandated the Commission to inquire into and establish the reality and/or otherwise of perceived economic marginalisation of communities and make recommendations on how to address the marginalisation*

Evidence shows that while the majority of Kenyans may not have been detained without trial or subjected to torture and other physical integrity violations, government’s exclusionary economic policies and practices in the distribution of public jobs and services inflicted suffering on huge sections of society at different historical moments. As the Commission traveled the country receiving statements and suffering on huge sections of society at different historical moments. The TJR Act mandated the Commission to inquire into and establish the reality and/or otherwise of perceived economic marginalisation of communities and make recommendations on how to address the marginalisation*

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In the case of North Eastern Province, employment, land, infrastructure, poverty, education and the institutional framework and capacity were the key indicators of the marginalisation of the region. One of the greatest impediments to development of the region is the lack of land registries in the region. As for infrastructure, which includes public utilities and is a major determinant of development and progress, the region has no tarmac road except the Isiolo-Moyale road, which is still under construction. The region has the highest rural population living under the poverty line at 70 percent, compared to 32 percent for Central province. Lack of food security is compounded by the erratic and low rainfall and declining pastures and other resources. This in turn creates conflict over these resources, further depleting the limited resources and the livestock. The paucity of schools and their relatively prohibitive cost in an area of widespread poverty has affected access to the limited education opportunities. School enrolment stands at about 18 percent for primary schools and 4.5 percent for secondary schools compared to the national average of about 88 percent and 22 percent respectively for primary and secondary schools respectively. Service delivery for health, water and sanitation. The region also exhibits gender marginalisation attributed to religious and cultural dynamics of the locale. Rural areas are served by dilapidated road networks compared to Mombasa, Kilifi, Malindi and Kwale.

While corruption violates the rights of all those affected by it, it has a disproportionate impact on people who belong to vulnerable groups. Examples of these are minorities, indigenous people, persons with disabilities, persons living with HIV/AIDS, refugees, prisoners, the poor, women and children. They are more exploited and less able to defend themselves. Their vulnerability makes them easy victims of corruption.

Kenya’s post-independence history has been marred by successive cases of huge scandals. In order to appreciate the magnitude and scale of grand corruption in Kenya, the Commission resorted to documented cases of grand corruption from the KenRen scandal in the 1970s up to the IEBC’s procurement of biometric voter registration kits in 2013. In the course of its work, the ethical and civil society exposed numerous multimillion dollar financial scams in Kenya including the following: Ken Ren Scandal; Goldenberg Scandal; Charlie Line Bank Scandal; and Anglo Leasing Scandal.

In its Chapter on Grand Corruption and Economic Crimes, the TJRC has

**Marginalisation has been used deliberately as a political tool to punish recalcitrant politicians by punishing their ethnic group or region.**

As we travel to Kenya, we face the strict burden of proof that we are, indeed, Kenyans. If the four of us were to travel in the same vehicle, would it be that the rest are all Kenyans, but I am a foreigner. So, at the numerous roadblocks which are lined up all the way from here to Isiolo where Kenya starts, I have to produce my identity card, in default of which I would face severe consequences. This scenario does not stop in Isiolo. In our own country, I feel the indignity of being stopped at a public office and being subjected to security and other checks simply because from my looks, I am a dangerous person or a terrorist. This is the kind of pain we have been living in since Kenya attained its independence

TJRC witness

Promoting Peace, Justice, National Unity, Dignity, Healing and Reconciliation Among The People of Kenya
demonstrated the linkages between these crimes and the enjoyment of human rights and the huge cost that Kenya is paying through corruption and economic crimes.

Women

Men and women experience violations of human rights and sometimes affect each other. Building on the provisions of the TJR Act, the Commission adopted policies and took measures that ensured that the experiences of and violations suffered by women were appropriately and comprehensively covered both in its work and this Report. These policies and measures related to the Commission’s statement-taking process, hearings, focus group discussions, and other activities undertaken by the Commission.

Perhaps most importantly, the Commission held separate hearings for women in order to encourage women to speak about their own experiences. The women’s hearings were framed as ‘conversations with women’. They were presided over by female Commissioners and staff, and were thus designed to be safe spaces where women could freely talk about violations that were specific to them. The women’s hearings were conducted in all regions of the country. In total, over 1000 women attended the women’s hearings across the country, with an average of 60 women in each hearing.

The Commission’s chapter on gender deliberately focuses on the various injustices that women faced during the mandate period. Although women have always constituted half of Kenya’s population, they have been traditionally relegated to a subordinate status by patriarchal cultural norms and practices. Harmful traditional practices in this regard, amongst others, preference for male children, early or forced marriages, wife beating, female genital mutilation and widow inheritance. These norms were standard and sanctioned by law in the greater period covered by the Commission’s mandate. As such the Commission has found that women were the subject of systematic discrimination and/or gender-based persecution throughout the mandate period.

An important finding made by the Commission is that in situations of conflict women are specific targets of violence, particularly sexual violence which is often accompanied by other forms of violations. The Commission has documented atrocities committed against women during the following three selected conflicts: Mau Mau War; Mount Elgon conflict and the 2007/2008 Post-Election Violence.

Conflicts always result in the forced displacement of populations. The Commission’s hearings revealed that the occupation and mismanagement which marred the entire process had a particularly devastating impact on women. A considerable number of displaced women told the Commission that they had received neither the start-up capital nor the payment in lieu of housing.

Kenyan refugee women in Uganda face a peculiar problem. During their women’s hearings, it became evident that many women found themselves in a dilemma as to whether they should return to Kenya or not. While some women were willing to return, their husbands were not. As such, they could not return to Kenya without straining or breaking their marriages. The general feeling among the Kenyan refugees in Uganda is that of a people who have been neglected and abandoned by their government. Kenyan women were also victims of state repression during the mandate period. As primary victims of state repression, scores of women, especially politicians, academics or human rights activists, were targeted of state violence both during Presidents’ Kenyatta and Moi’s administrations. A number of female members of parliament who were vocal in their opposition to repressive rule would be subjected to trumped-up charges, detained, or even tortured. The vast majority of women were however secondary victims of state repression. Many women were widowed after their husbands were killed in security operations or died in police custody after undergoing torture. Some were subsequently thrown into destitution since husbands are the main breadwinners in many households in Kenya. Those whose husbands or sons were detained faced similar fate.

In summary, women have suffered terrible atrocities just because of their sex and gender. The Commission has documented these atrocities not only for historical purposes, but also as a bold statement to political leaders and policy makers that achieving a just and fair Kenya partly depends on the empowerment of women and girls. Given the experiences and real contributions in the lives of women. There is need for special attention to the most vulnerable among women: women in rural and slum areas, internally displaced and refugee women, women with disabilities, women living with HIV/Aids and women belonging to minority and indigenous groups.

Children

Children occupy a special place in any effort to understand the impact of gross human rights violations and historical injustices. Children are, on the one hand, some of the most vulnerable people in a community and as such are less able to defend themselves against those who would do them harm, and are more likely to suffer both short- and long-term effects from gross violations of human rights. At the same time, children are the future of the country. Their experiences of their community, their family, their peers, of officials, and other people in authority have profound impacts on their future, including how they trust, or don’t trust, those in authority. In addition, experience throughout the world confirms that children who are themselves the victims of abuse are more likely to become abusers of others when they become adults. Some, as the Commission discovered, were both victims and perpetrators while still under the age of eighteen; being forced, for example, to join a militia and then committing violations as a member of that militia.

Thus, while the mandate of the Commission did not have a child-specific focus, the Commission made deliberate efforts to facilitate participation of children and young people in its proceedings and to ensure that their interests and views both as direct and indirect witnesses and victims of human rights violations were captured. The Commission designed child-friendly processes to promote the participation and the concerns of children and young people. Most notably, the Commission held a thematic hearing in Nairobi that included an opportunity for children to testify in their own words in an environment that was safe and supportive.

The Commission heard horrific and heart-rending stories of abuse, violence, and other gross violations of the rights of children. The Commission also heard the anger of some of these children—some going so far as to say they wanted to kill the people who had abused them. As such, the Children’s Chapter provides a call for the rights of the future of the nation. The root causes of tomorrow’s conflicts and violations are found in part in the treatment of our children today.

Minority groups and indigenous people

Testimony before the Commission clearly indicated that the rights of minorities and indigenous people have been violated repeatedly since independence. The problem is systemic.

Many oppressive laws sanctioned the collective punishment of minority and indigenous communities. While the laws were supposed to apply across the country, in practice they only applied to communities in northern Kenya where a significant number of minority groups and indigenous people are to be found. The anti-stock theft law, for instance, legalised the collective punishment of a community for the offences of individual members of that community.

Witness testimony before the Commission showed minorities and indigenous peoples routinely had their collective identity marginalised. National data classified them as ‘others’ creating deep-seated feelings of exclusion among groups such as the Muyu/oyoc, Nubians, Suba, Waata, Ogiek, Sabab, Kuria, Koma, Bajuni, Harar, Saausty, Burji, Isaak and Sengwen whose existence was effectively denied by the state. The TJRC’s reality to the majority of Kenyans. Yet the right to identity is important as it is associated with several, such as the right to culture.

The forced displacement of pastoralists and hunter-gatherers from their ancestral lands further increased their marginalisation, deepened their poverty and created conflict with neighbours. For instance, the Endorois were brutally evicted from the trust land they inhabited around Lake Bogoria when the government declared the area a game reserve. They were displaced, lost property and denied access to traditional cultural and religious areas.

The small population size that characterises minorities and indigenous groups, has denied them influence and left them out of policy and decision making – even where decisions directly affect them. During the mandate period, minority groups and indigenous people were unable to access justice at many levels frustrating their efforts to protect their rights. Minority and indigenous women suffered multiple forms of discrimination. They bore the brunt of inter-ethnic conflicts and insecurity and had difficulty accessing social services and goods from education to health services.

The 2010 constitution has several provisions aimed at securing an efficient legal framework for the protection and promotion of the rights of minorities and indigenous people. However, it needs statutory and institutional mechanisms for the realisation of these objectives.

Ethnic tension

The Chapter on Ethnic Tension documents the main causes and effects of ethnic tension in Kenya and is based mainly on testimonies that the Commission heard during its hearings across the countrywide. In addition to holding such hearings, the Commission also organized a thematic hearing on ethnic tension and violence on 2 February 2012 in Nairobi, received presentations by experts and relevant institutions such as the National Cohesion and Integration Commission (NCIC).

Through its research and hearings, TJRC identified several causes and drivers of ethnic tension in the country. The roots of most of these causes are traceable to the practices of colonial administration.
we must work from the basis that Kenya is a garment of many colours, which is beautiful because each colour is present. We cannot be one colour because we would be dull. Some colours cannot run over others because we would be ugly. We must all stay in place and be bright. That is an ideal situation of where Kenya ought to be.

Commission also received evidence that some stereotypes are drawn from and driven by traditional cultural beliefs and practices. For instance, the Commission found that indigenous languages were not used in formal courts and that the language used by colonial administrations contributed to a sense of ethnicity that continued to divide rather than unite the country. This was patterned around the ethnic enclaves created by the colonial government.

Fourthly, the colonial land policy, particularly in the so-called ‘white highlands’ contributed enormously to regional and ethnic marginalisation from the colonial era. In contrast, the land policies resulted in displacement, the creation of ‘native reserves’, as well as marginalisation from the economy. Colonial land policies resulted in the movement of masses of people from areas of their habitual place of residence to areas that were patterned around the ethnic enclaves created by the colonial government.

Thus, Kenya entered the era of independence with a heightened sense of ethnicity that continued to divide rather than unite the country. However, the ruling elite in independent Kenya did not have the political will or commitment to create a truly democratic and prosperous Kenya for all its citizens. The result was the worsening of ethnic relations such that by 2007, long standing grievances erupted into unprecedented violence.

The work of the TJRC was to provide a platform for healing and reconciliation. The TJRC was mandated to carry out a public hearing to receive a statement of the historical injustices that led to the conflict, to hear the stories of the victims, to hear the narratives of the perpetrators and to provide a process for healing. The TJRC was also mandated to make recommendations for a Transformational Reparation Framework for Kenya. The TJRC was also mandated to allocate resources from the Reparation Fund to various projects and programmes that would address the root causes of the conflict.

The TJRC’s mandate included the following:

- To investigate and make recommendations to the government and the people of Kenya on measures which will promote national unity and healing.
- To make recommendations on measures which will ensure that any future conflict in Kenya is resolved through dialogue rather than violence.
- To make recommendations on measures which will ensure that the lessons of the past are not repeated in the future.
- To make recommendations on measures which will ensure that the human rights of all citizens are protected and respected.
- To make recommendations on measures which will ensure that the rule of law is upheld in Kenya.

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## Annex: Recommendations and Implementation Matrix

<table>
<thead>
<tr>
<th>Theme/Subject</th>
<th>Recommendations</th>
<th>Responsibility for implementation</th>
<th>Timeline</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1 Atrocities committed during colonial era</strong></td>
<td>Acknowledgment and apology</td>
<td>British government</td>
<td>6 months</td>
</tr>
<tr>
<td></td>
<td>Negotiation for compensation from the British government</td>
<td>Kenyan government and British government</td>
<td>12 months</td>
</tr>
<tr>
<td><strong>2 Shifta War</strong></td>
<td>Acknowledgment and apology</td>
<td>President and Chief of Defence Forces</td>
<td>6 months</td>
</tr>
<tr>
<td></td>
<td>Repeal of Indemnity Act</td>
<td>Attorney General and Parliament</td>
<td>9 months</td>
</tr>
<tr>
<td></td>
<td>Publication and dissemination of the 1967 Arusha Agreement between Kenya and Somalia</td>
<td>Ministry of Foreign Affairs/Office of the President</td>
<td>9 months</td>
</tr>
<tr>
<td></td>
<td>Establishment of a public memorial</td>
<td>Implementation Mechanism/Ministry responsible for National Heritage/National Museum</td>
<td>24 months</td>
</tr>
<tr>
<td><strong>3 Massacres</strong></td>
<td>Acknowledgment and apology</td>
<td>President, Inspector General of Police and Chief of Defence Forces</td>
<td>6 months</td>
</tr>
<tr>
<td></td>
<td>Reparation for victims and survivors</td>
<td>Implementation Mechanism</td>
<td>36 months</td>
</tr>
<tr>
<td></td>
<td>Release of all minutes of the relevant District Security Committees, Provincial Security Committee, Kenya Intelligence Committee and National Security Council</td>
<td>President/Office of the President</td>
<td>6 months</td>
</tr>
<tr>
<td></td>
<td>Establishment of memorials at the sites of massacres</td>
<td>Implementation mechanism/Ministry responsible for National heritage/National Museum</td>
<td>24 months</td>
</tr>
<tr>
<td></td>
<td>Return of Father Adrian Joseph Janito for purposes of giving testimony on Bubisia Massacre</td>
<td>Catholic Church</td>
<td>9 months</td>
</tr>
<tr>
<td><strong>4 Political assassinations</strong></td>
<td>Acknowledgment and apology</td>
<td>President</td>
<td>6 months</td>
</tr>
<tr>
<td></td>
<td>Release of all reports and materials of all previous investigations of political assassinations</td>
<td>President/Office of the President</td>
<td>6 months</td>
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<tr>
<td></td>
<td>Further investigations relating to the assassination of JM Kariuki, Robert Ouko, Crispin Odhiambo-Mbai and Father Antony Kaiser</td>
<td>Director of Public Prosecutions</td>
<td>18 months</td>
</tr>
<tr>
<td></td>
<td>Further investigation of the assassination of Father Antony Kaiser</td>
<td>Director of Public Prosecutions to appoint independent investigator(s)</td>
<td>18 months</td>
</tr>
<tr>
<td></td>
<td>Establishment of public memorials</td>
<td>Implementation Mechanism/Ministry responsible for national heritage/National Museum</td>
<td>24 months</td>
</tr>
<tr>
<td><strong>5 Extra-judicial killings</strong></td>
<td>Acknowledgment and apology</td>
<td>President, Inspector General of Police and Chief of Defence Forces</td>
<td>6 months</td>
</tr>
<tr>
<td></td>
<td>Ratification of International Convention for the Protection of All Persons from Enforced Disappearance</td>
<td>Ministry of Foreign Affairs</td>
<td>24 months</td>
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<tr>
<td></td>
<td>Fast-tracking of reforms in the Police Service, including introduction of new standard operating procedures on the use of force</td>
<td>Inspector General of Police and Police Service Commission</td>
<td>12 months</td>
</tr>
<tr>
<td></td>
<td>Establishment of a fully equipped modern national forensic laboratory in each county</td>
<td>Ministry responsible for internal security and other relevant ministries/institutions</td>
<td>24 months</td>
</tr>
<tr>
<td></td>
<td>Establishment of fully equipped modern forensic laboratories in each county</td>
<td>Ministry responsible for internal security and other relevant ministries/institutions</td>
<td>24 months</td>
</tr>
<tr>
<td></td>
<td>Abolition of the death penalty and commuting of all death penalties to life imprisonment</td>
<td>Attorney General and Parliament</td>
<td>24 months</td>
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<tr>
<td></td>
<td>Reparation for victims and survivors</td>
<td>Implementation mechanism</td>
<td>36 months</td>
</tr>
<tr>
<td><strong>6 Unlawful detention, torture and ill-treatment</strong></td>
<td>Acknowledgment and apology</td>
<td>President</td>
<td>3 months</td>
</tr>
<tr>
<td></td>
<td>Enactment of legislation prohibiting torture</td>
<td>Attorney General and Parliament</td>
<td>12 months</td>
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<tr>
<td></td>
<td>Legislation on and establishment of the Office of the Independent Inspector of Prisons and All Places of Detention</td>
<td>Attorney General and Parliament</td>
<td>12 months</td>
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<tr>
<td></td>
<td>Prosecution of individuals involved in torture and ill-treatment</td>
<td>Director of Public Prosecutions</td>
<td>18 months</td>
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<tr>
<td></td>
<td>Designation of Nyayo House as memorial for victims of detention and torture</td>
<td>Implementation mechanism/Ministry responsible for National Heritage/National Museum</td>
<td>12 months</td>
</tr>
<tr>
<td></td>
<td>Reparation for victims and survivors</td>
<td>Implementation mechanism</td>
<td>36 months</td>
</tr>
<tr>
<td><strong>7 Sexual violence</strong></td>
<td>Acknowledgment and apology</td>
<td>President, Inspector General of Police and Chief of Defence Forces, and British government</td>
<td>6 months</td>
</tr>
<tr>
<td></td>
<td>Negotiation for compensation (in relation to victims and survivors of sexual violence committed by British soldiers in Laikipia and Samburu)</td>
<td>Kenyan government and British government</td>
<td>12 months</td>
</tr>
<tr>
<td></td>
<td>Establishment of one-stop gender recovery centers for provision of comprehensive services to victims and survivors of sexual violence, including medical, counseling and legal services</td>
<td>Relevant government ministries, departments and bodies including: Ministry of Health; Ministry of Justice; Director of Public Prosecutions; Police Service; NGEC; etc.</td>
<td>24 months</td>
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<tr>
<td></td>
<td>Legislation on and establishment of the Office of the Special Rapporteur on Sexual Violence</td>
<td>Attorney General and Parliament</td>
<td>12 months</td>
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<tr>
<td></td>
<td>Fast-tracking of the establishment of a sexual offenders registry</td>
<td>Chief Registrar of the Judiciary</td>
<td>12 months</td>
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<td></td>
<td>Reparation for victims and survivors</td>
<td>Implementation Mechanism</td>
<td>36 months</td>
</tr>
<tr>
<td><strong>8 Access to justice</strong></td>
<td>Fast-tracking of the establishment of the International Crimes Division of the High Court</td>
<td>Chief Justice</td>
<td>12 months</td>
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<tr>
<td></td>
<td>Fast-tracking of establishment of a nationwide legal aid system</td>
<td>Ministry of Justice/National Legal Aid (And Awareness) Programme in Kenya (NALEAP)</td>
<td>18 months</td>
</tr>
<tr>
<td></td>
<td>Declaration under article 34(6) of the Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of the African Court on Human and Peoples’ Rights</td>
<td>Ministry of Foreign Affairs</td>
<td>12 months</td>
</tr>
<tr>
<td></td>
<td>Issuance of a public report on the progress of investigations and prosecution of 2007/2008 post-election related violence</td>
<td>Director of Public Prosecutions</td>
<td>3 months (and in 3 months intervals thereafter)</td>
</tr>
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<td>Theme/Subject</td>
<td>Recommendations</td>
<td>Responsibility for implementation</td>
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| 9 Women       | Fast-tracking of enactment of human rights related laws as envisaged by the Constitution of Kenya:  
- Legislation on freedom of the media (section 34)  
- Legislation on fair hearing (section 50)  
- Legislation on the rights of persons detained, held in custody or detained (section 51) | President | 3 months |
| 10 Children   | Acknowledgment and apology | President | 6 months |
|               | Stepping up of measures to raise awareness about harmful cultural practices | Equality and Gender Commission | 18 months |
|               | Enactment of relevant laws (e.g. marriage; matrimonial property; family protection/domestic violence) | Attorney General and Parliament | 12 months |
|               | Adoption and implementation of a Plan of Action to increase and improve maternal health facilities and measures to reduce delivery at home | Ministry of Health | 12 months |
| 11 Minority groups and indigenous people | Implementation of decisions relating to minority/indigenous communities:  
- Decision of the High Court of Kenya in Charles Lekuyen Nabori & 9 Others v Attorney General and 3 Others (Petition No. 466 of 2006, High Court at Nairobi) | Various relevant ministries and institutions | 12 months |
|               | Ratification of relevant treaties:  
- ILO Convention 169  
- Convention on the Prevention and Punishment of the Crime of Genocide  
- Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families  
- Convention Against Discrimination in Education  
- Statelessness Conventions | Ministry of Foreign Affairs | 24 months |
|               | Fast-tracking of legislation on as envisaged by section 100 of the Constitution of Kenya | Attorney General, Constitutional Implementation Committee, and National Gender and Equality Commission | 6 months |
|               | Review of all legislation to eliminate de jure and de facto discrimination against minority/indigenous communities | Kenya Law Reform Commission and National Gender and Equality Commission | 6 months |
|               | Development and implementation of a plan on data collection on minority and indigenous communities | Kenyan Bureau of Statistics and Ministry of National Planning | Continuous |
|               | Implementation of the recommendations of the Presidential Special Action Committee to Address Specific Concerns of the Muslim Community in Regard to Alleged Harassment and/or Discrimination in the Application/Enforcement of the Law | Relevant ministries and institutions | 12 months |
| 12 Economic marginalization and violations of socio-economic rights | Formulation, adoption and implementation of a policy on the economic development of marginalized regions identified by the Commission Focus:  
- Roads and infrastructure  
- Health  
- Education  
- Water | Relevant Ministries and institutions including Ministry for Finance, Ministry of Health, Ministry of Education, Commission on Revenue Allocation, etc. | 12 months |
<p>|               | Collective reparation for communities in marginalized regions identified by the Commission | Implementation mechanism and relevant state ministries and institutions | 36 months |</p>
<table>
<thead>
<tr>
<th>Theme/Subject</th>
<th>Recommendations</th>
<th>Responsibility for implementation</th>
<th>Timeline</th>
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<tr>
<td><strong>13 Land</strong></td>
<td>Further investigations of alleged illegal or irregular acquisition of land</td>
<td>National Land Commission</td>
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<td>Survey, demarcation and registration of public land</td>
<td>National Land Commission</td>
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<td>Adjudication and registration of land at the Coast and other areas where this has not been done</td>
<td>National Land Commission</td>
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<td>Development and maintenance of a computerized inventory of all land</td>
<td>Ministry of Lands and National Land Commission</td>
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<td>Reparation for historical land injustices</td>
<td>Implementation Mechanism and National Land Commission</td>
<td>36 months</td>
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<td><strong>14 Economic Crimes and Grand Corruption</strong></td>
<td>Harmonization of the various laws relating to combating economic crimes and grand corruption</td>
<td>Attorney General and Parliament</td>
<td>18 months</td>
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<td>Domestic criminalization of certain offences stipulated in the UN Convention Against Corruption</td>
<td>Attorney General and Parliament</td>
<td>18 months</td>
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<td>Expansion of the Ethics and Anti-Corruption Commission (from 3 to 9 commissioners)</td>
<td>Attorney General and Parliament</td>
<td>18 months</td>
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<td>Fast-tracking of investigations of corruption cases which have remained unresolved for many years</td>
<td>EACC</td>
<td>18 months</td>
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<td>Clarification of ‘integrity test’</td>
<td>EACC</td>
<td>6 months</td>
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<td><strong>15 Ethnic tension and reconciliation</strong></td>
<td>National Reconciliation Conference/Day</td>
<td>President/Implementation Mechanism/NOIC/NSC</td>
<td>6 months</td>
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<td></td>
<td>Investigation and prosecution of all adversely mentioned persons in official reports on political instigated ethnic violence or clashes</td>
<td>Director of Public Prosecutions</td>
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<td>Audit of institutions and mechanism involved in peacebuilding, reconciliation and early warning with a view to harmonizing their activities and adopting a coordinated approach.</td>
<td>Joint Task Force of the NCIC, NSC and CSOs/CBOs</td>
<td>6 months</td>
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<td>Comprehensive and sustained nation-wide community dialogues</td>
<td>NCIC and National Steering Committee on Peacebuilding and Conflict Management (NSC)</td>
<td>Continuous</td>
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<td><strong>16 Mt. Elgon conflict</strong></td>
<td>Acknowledgment and apology</td>
<td>President/Inspector General of Police/Chief of Defence Forces</td>
<td>6 months</td>
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<td>Establishment of a counseling and healing center</td>
<td>Implementation Mechanism and relevant government ministries/institutions</td>
<td>12 months</td>
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<td>Establishment of a memorial for victims and survivors</td>
<td>Implementation mechanism/Ministry responsible for National Heritage/National Museum</td>
<td>36 months</td>
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<td>Reparation for victims and survivors</td>
<td>Implementation Mechanism</td>
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<td>Exhumation and reburial</td>
<td>Implementation Mechanism and relevant government ministry/institution</td>
<td>36 months</td>
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<td>Prosecution of individuals alleged to have been involved in the planning, financing and instigating violence and other atrocities</td>
<td>Director of Public Prosecutions</td>
<td>18 months</td>
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<td>Prosecution of army commander in charge of Operation Okoa Maisha</td>
<td>Director of Public Prosecutions</td>
<td>18 months</td>
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<td><strong>17 Forced displacement</strong></td>
<td>Facilitation and resettlement of Kenyan refugees in Uganda who are willing to return to Kenya</td>
<td>Relevant Government Ministry/Department responsible for matters relating to internal displacement</td>
<td>18 months</td>
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<td>Fast-tracking of the operationalisation of the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, No. 56 of 2012</td>
<td>Relevant Government Ministry/Department responsible for matters relating to internal displacement</td>
<td>6 months</td>
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<td>Audit and registration of all IDPs who did not benefit from Operation Rudi Nyumbani with a particular focus on integrated IDPs</td>
<td>Implementation Mechanism and National Consultative Coordination Committee on Internally Displaced Persons</td>
<td>12 months</td>
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<td>Reparation for IDPs and refugees</td>
<td>Implementation Mechanism</td>
<td>36 months</td>
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<td>Ratification of the African Union Convention for the Protection and Assistance of Internally Displaced Persons</td>
<td>Ministry of Foreign Affairs</td>
<td>24 months</td>
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<td><strong>18 Reports of commissions of inquiry</strong></td>
<td>Release of reports of previous commission of inquiries and related bodies:</td>
<td>President</td>
<td>6 months</td>
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<td>▪ Report of the Presidential Action Committee to Address Specific Concerns of the Muslim Community in Regard to Harassment and/or Discrimination in the Application and Enforcement of the Law (‘Sharawe Report’)</td>
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