III. TJRC Operational Documents

The Truth, Justice and Reconciliation Commission of Kenya

2-4-2011

TJRC Policy on In Camera Hearings

Truth, Justice, and Reconciliation Commission

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TRUTH, JUSTICE AND RECONCILIATION COMMISSION (TJRC) POLICY PAPER
ON IN CAMERA OR CONFIDENTIAL HEARINGS

THE TJRC WILL HOLD IN CAMERA OR CONFIDENTIAL HEARINGS

WHEREAS, The objective and mandate of the KENYA TRUTH JUSTICE AND
RECONCILIATION COMMISSION (the “TJRC”), as set forth in Sec 5 of the TRUTH,
JUSTICE AND RECONCILIATION ACT of 2008, as amended, (the “TJRC Act”) shall be
to promote peace, justice, national unity, healing and reconciliation among the
people of Kenya; and

WHEREAS, Section 6 and 7 of the TJRC Act respectively grants the TJRC general
functions and powers necessary to fulfill its mandate; and

WHEREAS, Sections 25 (2) and 25 (3) of the TRJC ACT provides that the TJRC may
conduct in camera hearings, and that a victim, perpetrator or witness may apply to
the Commission for proceedings to be held in camera:

THE TJRC HEREBY DECLARES:
1. The hearings of the Commission shall be open to the public.
2. Notwithstanding subsection 1, if the Commission is of the opinion that
   2.1. it would be in the interests of justice, or
   2.2. it is likely that harm may ensue to any person as a result of proceedings
        being open, or
   2.3. it is likely the security of any witness or participant will be threatened,
        the commission may direct that such proceedings be held in camera and that the
        public or any particular individual or individuals shall not be present at
        proceedings. The Commission may make such a decision at any time absent any
        application if the Commission determines from all of the facts and circumstances
        that it would be just, safe and proper to do so.

4 February 2011
3. As a general policy, all hearings involving children and victims of sexually-related crimes shall be conducted *in camera* at the sole discretion of the TJRC.

4. An application for proceedings to be held *in camera* may be brought by victims, perpetrators or witnesses within seven days of the respective proceeding. This requirement may be waived by leave of the Commission in exceptional cases.

5. Where the Commission directs that the public or any part thereof shall not be present at any proceedings or part thereof, the Commission may:

   5.1. Require that no information relating to the proceedings or any part thereof held *in camera* shall be made public in any manner,

   5.2. Require that no person may in any manner make public any information which may reveal the identity of any witnesses in the proceedings; or

   5.3. Give such direction in respect of the record of proceedings as may be necessary to protect the identity of any witness,

Provided that the Commission may authorize the publication of such information as it considers would be just and equitable.

DATED IN NAIROBI ON THE … DAY OF … 2010