

CURRICULUM REFORM AND TRANSITIONAL JUSTICE

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Title: Approaches to Curriculum Reform and/or Informal Approaches to
History & Civic Education Reform: A Case of Kenya

Introduction and Background

This case study has been developed by Trust for Indigenous Culture and Health (TICAH) in response to a call by the International Coalition of Sites of Conscience (ICSC) to highlight both government and civil society educational initiatives designed to promote remembrance of past human rights violations, social cohesion and a culture of human rights among youth. This case study presents the Kenyan story of the initiatives led by the government and the civil society in addressing historical injustices, the successes, lessons learnt, challenges and recommendations for future interventions and sharing with other coalition of actors.

The research and compilation of this case study was carried out by the experienced TICAH team and interviewed the Head of Office, International Center for Transitional Justice (ICTJ). The team was led by Vitalice Ochieng, a Senior Program Manager with TICAH. Vitalice is an Anthropologist with 15 years' experience managing programmes with INGOs and the UN both nationally and internationally. Key to the project was Ms. Fanis Inganga who has eight years' experience in Program Management and organizational support with different organizations in Kenya. Fanis is a Senior Program Manager with TICAH. Caroline Ngala, a Program Coordinator with TICAH, has been working with young people in the informal settlements for close to 10 years on leadership training, restorative justice and women empowerment.

This case study is informed by the experience of the team over the years, secondary data from Kenya's processes that have been documented in the last 20 years and an informative interview with the Head of Office ICTJ- Kenya. We had plans to hold interviews with the representatives of the Ministry of Education through the Kenya Institute of Curriculum Development (KICD) but it was not possible to secure an appointment in good time within the short duration of this research. Citations for the resource materials referenced in this document can be found in the bibliography on the last page. These include:

1. Transitional Justice in Kenya: A Toolkit for Training and Engagement by KHRC
2. Learning from our Past, a booklet by the ICTJ
3. Transitional Justice in Kenya and the UN Special Rapporteur on Truth and Justice - Kenya Human Rights Law Journal
4. Report of the Truth Justice and Reconciliation Commission
5. Needs Assessment Reports for Competency Based Curriculum by the KICD



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6. Basic Education Curriculum Framework by KICD
7. The Waki Report

History of Kenya

Repression, Violence, Conflict and Atrocities

Kenya has a history of repression and atrocities dating back to the colonial period. Between 1895 and 1963, the British Colonial administration in Kenya employed violence on the local population. They carried out massacres, torture, ill-treatment and various forms of sexual violence against the native population. At the same time the colonial administration alienated large amounts of highly productive land from the local population, and removed communities from their ancestral lands to pave way for the foreign settlers. The consequences of some of these forms of injustice live with the communities to date. Pastoral communities such as the Maasai have to put up with challenges of aridity and lack of pasture for their livestock in the new areas where they were moved to.

Immediately after independence, between 1963 and 1978, the first President of Kenya, President Jomo Kenyatta presided over a government that was responsible for numerous gross violations of human rights such as killings, torture, collective punishment, and denial of basic needs (food, water and health care) (TJRC Report, 2013). According to the report, political assassinations of people like Pio Gama Pinto, Tom Mboya and J.M. Kariuki; detention of political opponents and activists; and illegal and irregular acquisition of land by the highest government officials and their political allies, took place during this time and these violations of rights were never addressed.

Between 1978 and 2002, President Daniel Arap Moi presided over a government that was responsible for numerous gross violations of human rights including “massacres; unlawful detentions, and systematic and widespread torture and ill-treatment of political and human rights activists; assassinations, including that of Dr. Robert Ouko; illegal and irregular allocations of land; and economic crimes and grand corruption” (TJRC, 2013).

The Commission further reports that the third President Mwai Kibaki presided over a government that was responsible for numerous gross violations of human rights between 2002 and 2008. These violations include unlawful detentions; extra judicial killings; and economic crimes and grand corruption. State security agencies, particularly the Kenya Police and the Kenya Army, were cited as the main perpetrators of bodily integrity violations of human rights in Kenya including massacres, enforced disappearances, torture and ill-treatment, and sexual violence.

Children have not been spared in this history of violation of rights. They have been subjected to untold atrocities including killings, physical assault and sexual violence. In many cases, the sexual violence against children is perpetrated by people holding positions of authority or individuals who ought to protect them, such as parents, family members, teachers, religious leaders and members of the police and military. Due to the nature of the relationships, many of the cases are

unreported and victims experience the abuse repeatedly. Sexual exploitation is hampered by uncooperative relatives who opt to receive compensation instead of calling for the prosecution of the perpetrators.

It is worth noting that every new President that came to power after independence had to deal with dissent and clamour for justice emanating from the past injustices that had not been addressed. This played out in political contests where politicians were more interested in numbers than the protection of rights. The country continued to be balkanized even more as politicians rallied tribes against tribes in the contest for power. As Ndonga (2018) postulates, countries that have endured a violent past or a dictatorship that left behind a trail of human rights violations need to address that painful past to ensure that the violations do not recur in future. However, Kenya is one of the countries that has not conclusively dealt with the past atrocities in spite of the recurring inter and intra-communal conflicts due to the scramble for natural resources and political competition. She explains that even though the violation of human rights can be traced back to the colonial period, the first president of the Republic of Kenya, during a one-party state, failed to “right the wrongs of colonialism”. The second President, Daniel Arap Moi did not make it any better. “It was during Moi’s reign that ethnic-based violence and clashes were instigated for political gain by Moi and his cronies”.

Even though the clamour for change became louder with the return to multipartyism in 1992, the expanded democratic space did not provide an opportunity for the country to address past and present violations of human rights. Instead, politicians instigated ethnic violence whenever their political power was threatened in order to retain political patronage. In 2002, the change of leadership from the party KANU that had ruled for over 24 years to the opposition NARC, came with a lot of promises including the promise to address historical injustices. This marked the beginning of the Kenyan journey on the reconciliation path.

Reconciliation Processes, in the Past and Present

When Mwai Kibaki ascended to power in 2002 to mark the end of 24-year rule under Daniel Moi, the country had overwhelmingly voted for change on the promise of a new constitutional dispensation. A taskforce was appointed in 2003 to collect public opinion on whether a Truth Commission was necessary in Kenya to address the past violations of human rights. The taskforce led by Prof. Makau Mutua found that 91% of Kenyans were in favour of the formation of a Truth Justice and Reconciliation Commission. They recommended that the commission be formed before June 2004 to address and redress the past human rights violations and other injustices including economic crimes. However, even though the report was presented to the Government in August 2003, it was only revisited after another post-election violence in 2008. During the violence that erupted after disputed 2007 elections, over 1000 people lost their lives and over 600,000 were displaced.

At the onset of the 2007-2008 Post-Election Violence (PEV), a Kenya National Dialogue and Reconciliation Committee (KNDRC) was formed under the leadership of the former UN Secretary

General Dr. Kofi Annan to lead the negotiations. The Committee led the two parties (the ruling party and opposition) into the signing of the Kenya National Dialogue and Reconciliation Accord that created a Commission of Inquiry into the Post-Election Violence (CIPEV) led by Judge Phillip Waki. The Commission's mandate included the following:

- to investigate the facts and surrounding circumstances related to acts of violence that followed the 2007 presidential election.
- investigate the actions or omissions of state security agencies during the course of the violence and make recommendations as necessary; and
- to recommend measures of a legal, political or administrative nature, as appropriate, including measures to bring to justice those persons responsible for criminal acts.

The Waki Commission recommended the establishment of a Special Tribunal to seek accountability

of persons bearing the greatest responsibility for crimes, particularly crimes against humanity, relating to the 2007 general elections in Kenya. Judge Waki handed Kofi Annan a sealed list of key persons accused of orchestrating the 2007-2008 violence. The Report specified that the list would be forwarded to the International Criminal Court (ICC) if an agreement establishing a Special Tribunal was not signed within 60 days—by December 17, 2008. The special Tribunal was not established, and the list was forwarded to the ICC. The cases before the ICC have not been concluded to date.

The Kenya National Dialogue and Reconciliation Committee finalised their work after successfully negotiating for an end to the violence. Both sides agreed to comprehensive constitutional reforms and the establishment of a Truth, Justice, and Reconciliation Commission (TJRC) to ensure that this kind of violence never recurs in Kenya. "As a result, the TJRC was established in 2008 to investigate and document gross violations of human rights and other injustices committed during the British colonial period and across the administrations of Kenya's first three presidents, until the 2007-2008 violence. The TJRC was hailed as a mechanism that would propose sustainable solutions to promote peace, justice, national unity, reconciliation, and dignity among the people of Kenya" (Ndonga, 2018).

After five years of nationwide consultations, the TJRC finalized their report and handed it over to President Uhuru Kenyatta on May 21, 2013. Though the TJRC report was gazetted by the Attorney General, it was also tabled for debate and adoption in Parliament where it has stalled. As a result, not much has materialized with regard to implementation of its findings and recommendations in fulfilment of its objective and as expected by the public. The stalling is attributed to the fact that some of the perpetrators named in the report still hold public office. As the Kenya National Commission on Human Rights explains:

It is worth noting that since its establishment and nearly over a year later, the TJRC experienced a number of challenges which directly and indirectly hindered the effective execution of its mandate. It experienced serious constraints but of critical concern was the credibility questions which affected citizens' confidence in the institution particularly

linked to the chair Mr. Kiplagat. On the 20th of August 2010 a group of human rights defenders and representatives of victims filed a legal suit against TJRC and its chair calling for his removal or disbandment of the Commission. On 4th of February 2010, Elders representing the Coast region walked out of a TJRC public forum. On the 5th of February 2010, again emerged more demands calling the chair to resign as he was key and part of the Moi regime which is linked to the major human rights and economic atrocities and hence, he is regarded as primary witness.

There were two petitions to the High Court where one challenged the composition and statutory mandate of TJRC (Misc App No. 470 of 2009) while the other sought for dissolution of the Commission (Petition No. 1 of 2010 at Kisii High Court). A number of regions refused to engage the Commission because of the allegations against the chair on his direct involvement in illegal acquisition of public assets.

Similar to the challenges facing the reparations mechanism in 2018, TJRC faced a share of the lack of political will. When the Commissioner's position held by Betty Murungi fell vacant in 2010, the President did not replace her as required by the Truth Justice and Reconciliation Act. There was no replacement for the TJRC Chair when Ambassador Kiplagat stepped aside. In addition, the State deliberately refused to give TJRC vital documents pertaining to its mandate for review. These included reports of previous commissions of inquiry.

The above statement by the Kenya Human Rights Commission points to the challenges the TJRC commission faced despite finalizing and submitting the report to Parliament. The lack of adoption of the report by parliament has provided a leeway for non-implementation of its recommendations. However, some government institutions have made selected reforms in conformity with the recommendations, albeit in their own way, because they are not legally bound to implement a report that has not been adopted through the legal process in Parliament. Some of the reforms that have been initiated, especially in the education sector are discussed in the next section.

Education Reforms and Innovations

The Truth Justice and Reconciliation Commission made findings that required reforms in the education sector. The reforms were structural, policy and curriculum based. The commission noted that while primary education is free, many children were still unable to enjoy the right to education due to various factors including lack of necessary amenities such as school uniforms and writing materials. It was in the commission's view that past injustices included deprivation of some communities of access and to quality education. Therefore, the Commission recommended that a scheme be established to provide further financial support to indigent children to enable them acquire these necessary amenities.

The Commission further recommended that more schools be constructed, and a policy be developed as to the minimum standards on the number of schools serving a given area. The Ministry of Education was required to work towards the progressive integration of children with disabilities in the mainstream educational facilities by tailoring these facilities to suit the specific needs of children with disabilities, minority groups and indigenous people. On the curriculum reforms, the commission recommended that the Ministry of Education develop a peace education curriculum for use in schools.

Even though the TJRC report remains stalled in Parliament, the Ministry of Education carried out further needs assessments in the sector. The assessment report showed that a majority of teachers and head teachers expressed the need for the primary school curriculum to perpetuate patriotism. Kenyans wanted the topics of discrimination on the basis of ethnicity and disunity in the country to be discussed in schools. According to them, the education curriculum was not fulfilling its role in fostering a peaceful coexistence among different communities or countering other social ills which disrupt the general well-being among people.

The report also recommended that learners should be encouraged to attend school away from their local environment. This is because the existing education system (quota system) confined learners and teachers to their local environments, undermining interaction and cohesiveness among children from different communities.

The report identified disunity among political leaders and citizens as poor role models to children. In the view of learners:

The political leaders were to blame for the deteriorating state of unity and peace. The politics of the country is declining because the opposition candidates and incumbent leaders are always arguing. We need peace in our country. We need more political stability and not pointing fingers when problems arise.

Kenyans pointed out that there was a need for a curriculum that would train young people to live together in peace and harmony. According to the learners, the leaders had an obligation to reduce nationwide instances of disunity among citizens. They were of the view that politicians should work together, not engage in hate speech, tribalism, favouritism to avoid post-election violence and other related political issues. One pupil said:

Other issues affecting us in Kenya are that some politicians incite people, they use hate speech in rallies in the name of supporting somebody and you find mostly in Kenya you vote for the person because they come from your tribe. It is still taking place in Kenya because they were not taught at an early stage.

The report recommended curriculum reforms that would contextualize the challenges in society so that the learners can relate what they are taught to their own experiences. Pupils suggested that they needed education that would bring about unity, working together and helping one another. They expressed the desire to interact with each other peacefully. Learners and parents also underscored the need for the curriculum to address tribalism. They cited the

vice as the cause of unnecessary conflicts, killings, discrimination and as impacting learning negatively in certain areas.

The needs assessment report together with the Sessional Paper No. 2 of 2015 on 'Reforming Education and Training in Kenya', culminated in the review of the 8-4-4 system and the government embarked on the most comprehensive education reform since 1981. Among other things the sessional paper recommended was the introduction of a Competency Based Curriculum (CBC), as well as the integration of national values and national cohesion. One of the core competencies that the CBC framework sets out to be achieved by every learner is citizenship. The new curriculum has been designed to equip children and youth with knowledge on how to be 'good and responsible citizens', promote capacity for democratic citizenship, and knowledge on human rights, privileges and responsibilities. It also addresses the issues of ethnic and racial relations, social cohesion, good governance, and conflict management. The social science subject now incorporates not only history but also civic education. This education starts from middle school level-junior and upper primary, upto senior school level, and is expected to be taught under the social studies subject, and later on as History and Citizenship under Humanities.

Although these subjects have been identified as the most ideal in terms of teaching the past and seen to create an alternative space to learning about recent history, these topics are approached in a broad manner and not in a way that makes a specific connection to the country's history of conflict, repression or injustice. The ICTJ 2015 report notes that history is often a highly contentious topic after conflict, and curriculum reforms more often than not take time to be revised. For the case of Kenya, the subject of citizenship will likely have a positive impact in inculcating a culture of respect to human rights; building shared values; appreciation of diverse culture and; enhancing social cohesion and integration. In the long run, this may still serve to achieve the long-term goals of transitional justice measures of promoting peace, democracy, and reconciliation.

The Competency Based Curriculum (CBC) was developed to be implemented under a methodology that encourages participation and role play. For instance, while teaching about peace building, children are taken through a practical example of an acted conflict then put in a position where they can apply their conflict resolution skills. This also builds their interpersonal skills and social bonds regardless of their ethnic or social background. The examination has also been revised to take into consideration such competencies while grading as opposed to memory testing.

Teaching of Recent History and Human Rights Education in the School Curriculum

History, art, culture and human rights education play a key role in post-conflict situations as it brings identity, remembrance, visualization and dignity in learning as a process of healing. Throughout the last decade there has been a growing recognition of education's role in response

to conflict and the demands of early recovery so that it is seen as the fourth pillar of humanitarian aid alongside food and water, shelter and health. Schools and teachers can be used to provide a safe space and sense of normality during situations of instability, and can contribute to the physical, psychosocial and cognitive protection of children, adolescents and adult learners. Schools can also become sites for inter-agency collaboration and harmonisation. In TICAH, we create safe spaces in the community because we believe healing starts with trusting others and being able to share your stories with others to get support. As much as the Kenyan curriculum has not incorporated conflict resolution beyond teacher-students discussions, there is a need to find mechanisms through which we can support, understand, rebuild and integrate children and youth who have gone through conflict either at home, at schools or at the community level.

During the perpetration of injustices, repression and violation of human rights, children bear the brunt. Even after liberation and transition from injustice, children live under the burden of economic deprivations caused by the violence, discrimination etc. Some of them live through the injuries and deaths of their parents, families and friends and the destruction of their communities. In some cases, children have been targeted for killing, torture, underage recruitment into armed conflict, sexual violence and exploitation. Children deserve to understand why this has happened and how to come to terms with their pasts in order to promote reconciliation and to build equity, justice and freedom.

To prevent the perpetration of crimes on another generation of children, we must put accountability, truth-seeking, justice and reconciliation at the center of post-conflict recovery and development. As Graca Machel (2010) explains of her work in Mozambique, the success of transitional justice lies in the focus we place on the children. She says:

Transitional justice processes attempt to deal with the legacy of war but also help prevent future violations by establishing a way forward, from conflict to a more just and stable society. The potential success of such processes depends on the extent to which they prioritize children. We know from experience that if children are excluded from a country's agenda, if their rights are not addressed, a fault line will run through the heart of the nation. The measure of a country's strength and vision is not its military might but its investment in children's capacities, in their development.

One way of ensuring children are at the centre of all this is by mainstreaming the teaching of transitional justice in schools. Having been witnesses and victims of the crimes of war, children have a key role in addressing those crimes and in reconciliation and peace-building processes in their communities. "Evidence clearly demonstrates that children have an important and unique role in processes that seek truth, justice and reconciliation. Adults can act on behalf of children and in the best interests of children, but unless children themselves are consulted and engaged, we will fall short and undermine the potential to pursue the most relevant and most durable solutions" (Machel, 2010). To enable children's participation, while ensuring their protection and allowing them to feel safe, secure and at ease, we need child-friendly policies, procedures and practices in all transitional justice activities. This includes supporting children's right to choose

whether or not to participate and to decide how they wish to be involved, with whom they wish to engage and when.

Suggestions for such advances put forward by children include access to education and vocational skills, accelerated rebuilding of schools, the inclusion of lessons from the truth commission in school curricula, help for children on the streets and compensation to youth to make up for lost years of education through the provision of economic and livelihoods opportunities.

“Learning from Our Past” - Booklet by ICTJ

The International Center for Transitional Justice published a Booklet titled, “Learning from Our Past” as a teaching material to be used in teaching young people in schools. This was not adopted by the Ministry of Education and was instead taken up by the National Cohesion and Integration Commission (NCIC) to be used by Amani (Peace clubs). In compiling this report, we had an interview with the Head of Office, Kenya Ms. Agatha Ndonga. She outlined the contribution ICTJ made during the search for peace after the Post-Elections Violence in 2008, the technical support offered to the Negotiation teams and the reconciliation commissions thereafter and the initiative to develop a booklet that would be used in schools to teach young people about their past in order to prepare them for the present and the future. She had this to say:

ICTJ played a major role during the truth telling process. We not only played a role in the drafting of the legislation, the Truth Justice and Reconciliation act of 2008 but also worked very closely with the truth Commission, all the way through to helping the participation of civil society, networks of Post Election Violence victims and survivors, and also just helping them with the data collection, data management and report writing. Now, one of the main pieces of advice that we offered was to have the commission, ensure that the youth and children are not left behind in the truth telling process in whatever capacity. I would say that Kenya has been hailed as one of the countries that ensured that children participated and participated in a way that followed the international standards. As a result, we have a chapter that now focuses on children.

We approached the commission and asked them if we could help them write a child friendly chapter of the report. And so we came up with the “Learning from Our Past”. We tried to get excerpts from the TJRC report and the TJRC process into a very simple, simplified version that could be read and understood by children without it being traumatizing.

But other than that, we wanted other children who did not know the history or experience the violence, and also children in future to know about this and learn from the past. And so we had envisioned, where this tool can be used as a teaching tool, a tool for teaching in schools. Our idea had been to have it mainstreamed into the curriculum, but if not, to have it used as complimentary teaching material. And so, we



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approached Kenya Institute of Curriculum Development (KICD) and presented the material. That is when they were having consultations on reforming the curriculum. Unfortunately, what happened is that if interested one was meant to either individually or as organizations to submit material that they wanted to propose to be considered once the curriculum could be reformed, and the new material adopted. So, we made that submission. They told us there was a need to entrench national values and principles into the curriculum. They felt that the reason the country is just disintegrating, and degenerating is because there is very little focus on cultivating national values, principles in children through teaching. And so, we felt that because we had also touched on that in our publication that it would make for a very good teaching tool. We presented it to the curriculum developers. We had to wait, you know, to hear back from them but they took us through a painfully long process, you know, from the having the beginning of conversations all the way to making presentations, following up and you have to keep following up basically, because if you don't, if you don't take that initiative, it can stall in the process.

Since the KICD was not able to adopt the booklet into the curriculum that was being developed, ICTJ approached the National Cohesion and Integration Commission (NCIC) to take it up for use by the Amani (peace clubs) in schools. Through the Amani clubs, the NCIC was able to approach both primary and secondary schools to instil the culture of peacebuilding and conflict prevention. The NCIC agreed to have the booklet distributed to the Amani clubs and ICTJ supplied several copies to different schools across the country. Amani clubs would use the booklets to start conversations about Kenya and the past conflicts. The initiative was well received in the schools but ended in 2017 due to lack of funds.

Informal Education & Training

Other than the formal educational programs and reforms in the schools, there have been some initiatives out of school that target the youth and the general population. Some of these initiatives are led by civil society. The Kenya Human Rights Commission developed a training toolkit that was to help in building the capacity of Kenyans to appreciate the process and benefits of transitional justice. Trust for Indigenous Culture and Health (TICAH) also implemented a program in the Nairobi slums working with young people to help them recover from the effects of the PEV and work towards reconciliation.

Transitional Justice Toolkit by KHRC

Soon after the signing and coming into force of the Kenya National Dialogue and Reconstruction Accord, which is legally entrenched by the National Accord and Reconciliation Act, it was anticipated that the implementation of the Transitional Justice measures listed under Agenda Item 4 of the Accord, and in particular the wide mandate of the TJRC, would need the diligent support and oversight of the public and the civil society in general, if those measures were to be implemented effectively. Thus, the Kenya Human Rights Commission (KHRC) developed a Toolkit to empower the citizens to engage constructively and meaningfully with the Transitional Justice

process in Kenya. This Toolkit provided an explanation of the concept in order to educate the masses on the mechanisms and tools of engagement in Transitional Justice in Kenya. A copy of the toolkit is attached to this report.

Trust for Indigenous Culture and Health (TICAH) Initiatives:

After the 2007 Post-Election Violence, and during the transitional justice process, TICAH became involved in exploring how our cultures and shared positive values can be used to foster peace and build healthier communities in Kenya.

Art activism and body mapping

Our work in the informal settlements of Nairobi drew our focus to the impact that PEV had on youth, as well as the high rate of reported and unreported extrajudicial killings and wrongful incarceration of children and youth living in the Kenyan slums. In 2009, we created safe spaces for young people to hold dialogues and discuss how to foster peace and reconciliation in their communities, in the context of dealing with past and recent human rights violations against them. Through this project, TICAH brought together 30 youths from three informal settlements in Nairobi to discuss human rights, justice, and peace.

Through art activism, we created community murals of expression to amplify voices of victims. We organized street theatre performances to teach human rights, values, and to create awareness on human rights violations and mechanisms for redress or reporting. We also used the time travel approach to reflect on the issue of police brutality and injustices against young people living in slums in a historical context. We created spaces to share stories, reflect on key questions and learning, and find ways of building social cohesion. Through this, we organized dialogues between youth, police and community leaders for truth-telling and finding ways for peaceful co-existence.

Since 2005, TICAH has used body mapping, an art therapy and dialogue-based methodology to create spaces for healing, reflection, truth-telling, sharing and activism with groups who have survived human rights violations and other traumas. TICAH developed a toolkit as a guide for facilitating body mapping workshops with different groups.

TICAH has hosted many body mapping workshops and exhibitions around the world—each with a population experiencing health or human rights challenges, hoping to heal and recover their dignity while sharing their experiences beyond their circle of peers. Although the tool was first adapted to provide a chance for learning and healing among HIV+ women, the tool was later on adapted for victims of different human rights violations. We hosted body mapping workshops for 12 Kenyans who survived torture in the notorious Nyayo House, maintained by Kenya's second president, Daniel arap Moi (1979 – 2002), and instigated by the practices of Kenya's first president, Jomo Kenyatta (1964 – 1978). In July 2013, the Sites Coalition invited TICAH to again work with a team to conduct an evaluation of the 2012 body mapping work and to support survivors' efforts to work together toward the goals of establishing Nyayo House as a memorial site, and of sharing

their experiences (and their artwork) with the larger Kenyan public in meaningful ways. We have also hosted body mapping workshops with victims of rape and sexual abuse, during the PEV , providing them a space to share their experiences, reflect, forgive and begin their journey of healing.

Our Healthy Households program supports primary and secondary students to discuss values, history, rights, art and culture using the TICAH calendar as a teaching tool. We have also created a toolkit that helps facilitators to lead discussions using the calendar. The history/date pad has enabled students to learn about the recent history, and past violations. We use a participatory method of facilitating these dialogues to promote learning by applying history to current contexts, and allowing students to reflect on what they can do to prevent violations as well as build cohesive, peaceful and healthier communities. We have also provided tools that help in restorative justice where students who have gone through disciplinary cases can be accepted back to school and can be guided, without discrimination, on how to reintegrate with other students. Our calendar tool has also been used by partners such as Amnesty international in their human rights and activism program in schools. The Kibera Creative Art organization has also adopted our tool into their *Mission Impossible* program which rehabilitates youth who have been in jail back into the communities by promoting discussion around values and rights, peace and having an inclusive community.

Success Stories of TICAH's Work:

Over the years we have created programs that are rooted in communities and address their needs. Most of the participants, teachers, guardians and community members have supported this work and taken it as their own. We have had many stories from the youths who have been rehabilitated back in the community, to youths who have healed from post election violence and started their own initiatives to support other youths who have been victims of injustices. Such initiatives included *Grogon B reformers* in Kariobangi slums, *TICAH Youth for Peace*, *Mission Impossible* project from KiCA. *Light mtaani* is also an initiative that was started in Kibera slums with an aim to bring awareness on the extrajudicial killing and two of our beneficiaries also started photography for expression as a way to give spaces for children and use to use photography as a way of creating awareness and expressing their thought.

We have also seen challenges that we have converted into a new project to help child survivors of gender based violence. This project aims to reduce the prevalence of GBV and violation of children's rights in the slums of Majengo by strengthening the capacity of the children, parents, and the communities to organize, seek solutions and take preventive action. Specifically, the project will bridge the communication gap between children and their parents through intergenerational dialogues and co-creation of spaces for community dialogues and human rights education, and awareness.

Challenges to Transitional Justice in Kenya

1. Lack of political will to implement the reforms listed in Agenda 4 after the post-election crisis was averted
2. There is little if any co-ordination in the implementation of the various agenda four initiatives which need to be synchronised
3. The items listed in Agenda 4 leave out some important reforms needed or being undertaken such as the disaster management policy, national mining policy, national human rights policy among others.
4. The TJRC report has a comprehensive reparations framework meant to provide the much-needed structure that would ensure a smooth reparations process for victims of past atrocities. However, lack of adoption of the TJRC report stalls the implementation of its recommendations.
5. The failure to pursue accountability for the crimes committed during the 2007 violence, despite consistent calls to action. To avert future recurrence, there is a need to either have an alternative justice mechanism or establish a domestic criminal mechanism to try persons responsible, as spelled out in the TJRC report.
6. Regrettably, the police vetting process that was meant to reform the police institution into a more democratic, accountable, and effective institution that is aligned to the constitution has also ended up being a sham. The process that commenced on December 17, 2013, by the National Police Service Commission was part of an effort at reforming the police service by assessing the suitability and competence of police officers and removing those found unsuitable, including those who are human rights violators. The process stalled after vetting the top ranks, due to the failure to realize trustworthiness and accountability of the police.
7. On the children's rights, whereas there have been attempts by the Government to establish institutions crucial to the protection and enforcement of children's rights, such institutions remain understaffed and do not have adequate resources. Where staff exist, they either lack proper training on children's rights or are stationed at the district level, and as a consequence the majority of children are not reached.

Lessons, Reflections and Recommendations

Even though the TJRC report remains stalled in Parliament, a number of reforms in the different sectors that were mentioned in the report have either been initiated or at least reviewed. In the education sector, primary school education is not only free but compulsory. As of 2020, the government has moved to ensure 100% transition from primary to secondary schools. This is to ensure that no child in Kenya is denied the right to basic education. The government also reviewed fees being paid in schools in order to ensure that it does not hinder access. The government is also providing teaching materials such as textbooks in public schools. Even though it is not yet to the expected quality as desired, access to education in Kenya has improved significantly in the last 8 years.

The roll-out of the new CBC curriculum is in the 5th grade. Children are exposed to more practical lessons as envisaged in the curriculum framework. Even though some parents feel it is too demanding, the Ministry believes that it builds the relationship between learners and their peers, teachers and parents as well. As the curriculum is being implemented, focus should be put on the methodologies to strike a balance between teaching the past and building the spirit of reconciliation and the patriotism to live a better life in the future. It should not be done in a way that opens old wounds, or promotes the blame game but in a way that brings together participants to understand the past for the sake of preventing a recurrence in the future.

There should be a coordinated approach in reviewing reforms taking place in the different sectors to ensure that no sector is left behind. Even though the TJRC report is not formally adopted, some of the recommendations can be addressed by the respective departments. A review exercise can be done across the different sectors in order to provide an update of the reforms that have taken place since 2013. The review exercise can bring Kenyans' attention to areas of reforms that need to be addressed as a way of addressing past injustices and preventing future violations of rights.

Even though a lot of emphasis has been put on political past injustices, there should be a deliberate focus on past and present economic injustices that targets mostly young people that form 70% of the Kenyan population. Unemployment and increased levels of desperation makes the youth less patriotic and more susceptible to manipulation by politicians to cause conflict and violate rights of others. Therefore, we propose a project that looks into the past and present economic injustices targeting the youth in Kenya.

Under the peace program in TICAH, we hold intergenerational dialogues between the elderly and the youth to encourage clarification and sharing of cultural values that promote peaceful co-existence. We recognize the role of culture in peacebuilding and the role of family upbringing in instilling values in young people. We also recognize that young people who migrate to urban areas which are cosmopolitan tend to move away more easily from their cultural norms than those that keep touch with their indigenous culture. We will continue to promote the cultural dialogues between the two generations and scale it up to cover the wider nation by sharing the successes we have realised with specific communities.

Going by the challenges that the government has faced with implementing the recommendations of the TJRC report, it is clear that the civil society will need to play a more active role in supporting the implementation of transitional justice in Kenya. However, even though there are CSO's already carrying out work on peacebuilding and conflict resolution, not many of them are conversant with the concept of transitional justice. There is a need to build the capacity of CSOs to initiate projects that support communities to address past and present injustices and build the spirit of reconciliation. Communities should also be supported to establish safe spaces for their people to express their grievances and create mechanisms for amicable resolutions. These can be done through different strategies including the use of creative space such as music, art, theatre etc.



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Some of the findings of the TJRC commission included injustices that have been perpetrated through negative cultural practices. Some cultural practices promote bias or discrimination against different social groups in the community. As TICAH, we engage cultural leaders and opinion shapers in dialogues with the communities to identify such injustices and put in place mechanisms of ensuring equality of opportunity and equitable sharing of resources. In many cultures the marginalized groups are often women, youth, people living with disability and the elderly.

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Acronyms

| | |
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| CBC | Competency Based Curriculum |
| CIPEV | Commission of Inquiry on the Post-Election Violence |
| ICTJ | International Center for Transitional Justice |
| INGO | International Non-Governmental Organization |
| KHRC | Kenya Human Rights Commission |
| KICD | Kenya Institute of Curriculum Development |
| KNDRC | Kenya National Dialogue and Reconciliation Committee |
| NCIC | National Cohesion and Integration Commission |
| PEV | Post-Election Violence |
| TICAH | Trust for Indigenous Culture and Health |