POST TJRC FORUMS CONSOLIDATED REPORT
October 2013.
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PART 1: ACKNOWLEDGEMENT

The Kenya National Commission (KNCHR) wishes to thank all the teams and team leaders who participated in the planning, facilitation and feedback. Without your selfless engagement, KNCHR would not have realized the desired outcome.

KNCHR is also grateful for the wonderful and fruitful engagement during the forums by the victims, survivors and other stakeholders. On the same breath, we acknowledge the fruitful participation by senior county government officials in the various counties.

KNCHR greatly appreciates the efforts of Kenya Transitional Justice Network (KTJN) for the support and advice towards the planning and organizing the forums. Likewise, we thank all the other regional stakeholders who participated in the forums.

We are also very thankful to the GIZ- Kenya office for the generous financial and material support which enabled KNCHR to hold the forums. It is our hope that the partnership will last for the realization of justice for victims.
PART 2: BACKGROUND INFORMATION

The Constitution mandates KNCHR to build a culture of human rights in the republic. In that regard, one of the interventions of the KNCHR has been redressing historical injustices.

Since inception, KNCHR has been on the fore front in advocating for a victim centered truth seeking process as one of the ways of realizing justice. To that end KNCHR has consistently engaged victims and victim groups in order to place victims’ needs and concerns at the centre of any truth seeking process.

Following the establishment of the Truth, Justice and Reconciliation Commission (TJRC), KNCHR helped in the sensitization of victims and victim groups on the TJRC’s mandate and process; preparation of victims and victim groups; assisting victims and victim groups to prepare memoranda for presentation to the Commission; and monitoring the overall TJRC process.

As a result of the foregoing, KNCHR together with other progressive institutions formed the Kenya Transitional Justice Network (KTJN) to create synergy in the struggle for the realization of justice for victims of historical injustices. This ensured progressive collaboration with other stakeholders in the Transitional Justice sector in order to ensure a coordinated approach towards the process.

These joint engagements resulted into;

(i) A summary and simplified version of the TJRC report.
(ii) Common plan to engage stakeholders, particularly victims and policy makers. As part of this common plan the KNCHR desire is to engage victims and survivors widely in order to divulgate the report and empower victims about their rights as contemplated in the report.
(iii) A common plan to continue engaging stakeholders in transitional justice work.

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1 Other members include KHRC, ICJ, ICTJ, SOREC, CRECO, ICPC, COVAW and GIZ
PART 3: INTRODUCTION

Following the release of the TJRC report, KTJN worked on a simplified version through numerous engagements. Thereafter, KTJN with the International Commission of the Jurists (ICJ) and Kenya Commission Human Rights (KHRC) in the lead held a national conference with victims and survivors.

The national conference kick started the focused regional forums to among other things engage the victims and survivors engage stakeholders especially the county governments and get feedback.

The general objectives of the county forums were to promote victims’ rights in Kenya through dialogues with the same on the TJRC report, its findings, recommendations and implementation.

The following were the specific objectives;

1. To enable victims and survivors of historical injustices acquaint themselves with the contents of the TJRC report and especially the reparations framework.

2. To enable stakeholders consolidate their efforts for meaningful synergy towards the push for the implementation of the TJRC report and its recommendations.

3. To establish a victim-centered implementation agenda for consideration by actors charged with the responsibility of implementing the TJRC report and other transitional justice processes.

The forums by the Nairobi Office were held in Murang’a, Nakuru, Kisumu, Mombasa, and Makueni on the 17th September 2013. A sixth forum was held on 30th September 2013 in Nairobi. The North Rift Office held its forums between 1st to 19th September 2012 and a consultative forum on 6th September 2013. The North Eastern Regional Office held its public forums on 8th, 13th and 15th September in Wajir.

This report consolidates the happenings at the said forums.
PART 4: METHODOLOGY

As the truth seeking process has been full of challenges, both as a result of the low political good will and apathy. As a National Human Rights Institution which has been actively involved in the TJRC process, continues to see the need to increase the efforts especially after the release of the TJRC report.

In a bid to ensure that the forums had high impact, KNCHR used the flowing strategies;

(i) **Mobilizing the victims and survivors who interacted with the TJRC process.**
   The TJRC collected 42,465 statements and 1,828 memoranda from Kenyans and conducted public hearings all over the country. All this information was analyzed by the TJRC and used to write the final report. It means that there are at least 44,293 victims and witnesses that have the right to know the result of the truth seeking process.

(ii) **Mobilizing stakeholders to ensure that they support the process.**
    These stakeholders were mainly the members of the KTJN members, community leaders, victims and survivors groups.

(iii) **Lobbying County Governments to support the process**
    As the concept of devolution is taking shape, KNCHR mobilized senior county government officials to attend the forums. This was to prompt them to support the process though policy formulation and discussion in the MCA meetings. For those who didn’t make it to the forums, KNCHR officials visited them in their offices.
PART 5: FORUM HIGHLIGHTS

5.1 Makueni

The forum was held on 17 September 2013 at KARI Research Center Conference Hall in Kiboko. A total number of 42 participants who mostly were victims and survivors gave a feedback on the TJRC report, some drawing back to the injustices done to them.

The forum revolved around key issues affecting directly the people of Makueni. However, the land issue was prominent and almost overshadowed others. Since the land issue was largely captured in the report and recommendations made for it, the participants are eagerly waiting for the implementation of the report.

Most participants identified themselves as having participated in the TJRC process by giving statements. One gave an account of how he survived the post election violence in Eldoret and the consequent problems he has faced.

Shockingly, most of the participants in the forum were however not generally aware of the release of the TJRC report and it was the first time they were discussing the report.

The governor of Makueni County, Professor Kivutha Kibwana attended the forum and requested KNCHR to give a breakdown of the issues relevant to Makueni County. He noted that this would help his management in strategizing to see how to forge for a way forward in ensuring the reparations of the victims on the mentioned issues.

The Participants identified the following key issues in the region:

1. **Land conflict** - This stood out to be the common issue in the region with most of the participants noting that they didn’t have any title deeds for their land. They also noted that unscrupulous people were taking advantage of their situation to defraud the poor and hence kick them out of their land.

   The participants noted that they cannot not access bank loans to develop their lives hence poverty is common in the region. They noted that if the land problem is not resolved as soon as possible, it may trigger other problems like tensions and as witnessed in the recent clash of words over the Makueni- Taita border.

2. **Extrajudicial/unlawful killings** - Some of the participants noted that they have lost their relatives over police brutality. The police were blamed for cover-up after their actions.
3. **Sexual Violence** - The participants noted that gender violence was rampant in the region but singled out the issue of rape and defilement for women and girls with disabilities. One of the people with disabilities noted that she had been threatened over her activism against rape and noted that the TJRC report was a good starting point in fighting the vice.

4. **Marginalization** - The Governor of Makueni noted that the area had been left behind in development matters and blamed the successive regimes for neglecting the region for political reasons. The participants noted that the leadership had failed the region and indicated that they have many rivers and fertile land which could help them if irrigation was done.

5. **Internal Displacement** - The participants noted that because of the land problems, many people had been misplaced and recounted how they had lost property in areas like Chulu, Mikululo, Kiboko and Emali regions. They attributed this to the colonial investors who pushed them from their land to grow sisal and do mining. They also blamed the political leaders of conniving with the rich to push the poor out of their land by corrupting the justice system.

The participants showed their skepticism on the ability and willingness of the President and his political class in implementing the report. They however showed trust that KNCHR could help in the push for the implementation of the report.

The key outcomes of the Makueni forum are;

i. As this was the first opportunity to interact with the report, the participants through their respective groups noted that they will mobiles their constituents to ensure that the awareness is created.

ii. The forum also created a space for community members to engage directly with the Governor who promised to look into the relevant chapters to the region and eventually form “a local truth telling process”

iii. The Governor asked KNCHR to summarize the key issues in the TJRC report so that the MCAs can deliberate on them and give the appropriate action where possible.

iv. The Member of the County Assembly in attendance, Keli Musyoka pledged to pursue the matter in the deliberations so that issues which required urgent action could be dealt with. Indeed some of the victims and survivors got instant assistance as they got appointments to meet the Governor and others were listed for support using the devolved funds.

5.2 **Kisumu**
The forum was held on 17 September 2013 at Shalom Hotel. 53 participants attended the meeting, among them 3 members of County Assembly and a representative of Citizens against Violence (CAVi), a local based non–governmental organization that works with victims and survivors. Eight participants identified themselves as having participated in the TJRC process by giving statements. One gave a statement on post election violence, and the remaining seven testified on the subject of police brutality. In addition, one participant in the forum had attended a TJRC public hearing.

Participants in the forum were not, however, generally aware of the release of the TJRC report. Only one had seen a copy of the report. No forum participants had read the report or were aware of the recommendations prior to the forum. However, the lack of knowledge of the report is not only unique to the participants, but also extends to the leadership in the region including the County Government.

On 18 September 2013, a visit was made to the Governor’s Office to follow up on the forum, where KNCHR officers met with the Deputy Governor.

The Participants identified the following key issues in the region:

6. **Extrajudicial/unlawful killings.** This stood out as one of the main issue in the regions since several participants lost family members to police shootings or had themselves been shot by police, and now faced serious medical and economic issues. One man had lost his leg, and a woman explained that she was unable to do hard work because of medical complications from being shot. Another participant had lost her son (the family’s sole breadwinner), while others had lost husbands, daughters, and students. These incidences occurred mostly during the Post Election Violence (PEV), although the community’s poor relationship with the police dates as far back as the 1960s. The extra – judicial killings has captured the entire transitional justice debate in the region with the forum having three quarters of the participants and thus almost overshadowed all other transitional justice issues.

7. **Political assassinations.** The Killings of Dr. Robert Ouko and Thomas Mboya among other dignitaries from the region.

8. **Land conflict.** This is particularly at the boundary between Rift Valley and Nyanza, around the Muhoroni-Chemelil area.

9. **Marginalization.** Participants felt the area had been neglected by the state and thus have had some of the poor infrastructure in the region and entire poverty.

10. **Unequal distribution of resources.** Participants felt that the region did not get a fair share of state resources because they had a history of being in the political opposition since independence.

11. **Sexual Violence.** Participants reported cases of rape in during the PEV.

12. **Internal Displacement.** The problem of IDPs was reportedly a new issue arising out of the PEV.

The participants told of their frustrations seeming from the lack of compensation or reparations following the Post – Election Violence. Claims exist of other counties receiving the compensation but Kisumu being left out despite having giving statements, hired
lawyers, and filled out numerous forms but had not been given justice and compensation. This was further aggravated by the decision in the last two weeks to close some IDPs Camps in the Country in the Central part of the Country. Access to medical care, jobs, electricity, and water, rather than (or in addition to) public apologies still remains a challenge to the people in this region.

Skepticism exists on the ability and willingness of the President and National Assembly to implement the report. As noted, many of the perpetrators listed in the report are the same people in power, and had previously ignored their requests for help and compensation. However, there seems to be feeling across the participants that the the Governor and County Assembly can help resolve their plight.

Participants called on KNCHR to:
  i. Arrange and facilitate the proposed meeting between victims, the Governor, and the County Assembly.
  ii. Distribute KNCHR materials and past reports, such as the report submitted to the ICC following the PEV. Participants were interested in the work of KNCHR but not able to access it.
  iii. Press for repeal of the police forces’ “shoot to kill” policy.
  iv. Push for the special local tribunal on PEV, to address delays in the process for seeking compensation expressed by participants.

When KNCHR officials visited the Deputy Governor Ruth Odinga and shared the concerns raised in the forum, she noted that issue of resources and the implementation of the report of the TJRC report remains a challenge to the County Government. However, she noted that there exist issues that may not require finances in their implementation in large scale. These include:
  i. the affirmative action in providing employment to the victims/survivors
  ii. Participation in key decision making agendas that shall shape the lives of the victims/survivors
  iii. Advocating of laws that shall suit the victims/survivors in their daily lives amongst others.

The Deputy Governor promised to look into and plan with moving forward.

The Key Outcomes of the Kisumu forum are;
  I. The forum was critical in raising awareness about the TJRC report in an area where it was otherwise unknown as well as the provision of an avenue of expression of issues and concerns by the participants.
  II. A total of 300 copies of the summarized report were distributed as; 3 copies each to the participants, 50 copies to the County Assembly, 50 Copies to the Governor’s office and other 50 copies to the Local Based Non – Governmental Organization, CAVI.
  III. The forum also created a space for community members to engage directly with the Members of the County Assembly who promised to pass a motion in the County
Assembly specifically on the welfare of the victims and survivors and follow through the implementation of the TJRC report.

IV. Survivors, victims, and other forum participants agreed to organize into an association to represent survivors and victims’ that would be the mouth piece of the Victims/Survivors who would then be advocating for their demands. They would then meet with the Governor and County Assembly to express their concerns as victims and press them to pass a motion to be taken to the National Assembly calling for reparations. The KNCHR should take the lead on this.

V. The Member of the County Assembly in attendance pledged to pass a motion in the Justice and Legal Affairs Committee asking for help for victims and disseminate copies of the KTJN summary to the Justice and Legal Affairs Committee and to the County Assembly. The MCA also promised to help arrange for victims to have an audience with the Governor.

5.3 Murang’a

The meeting with victims was held in Fortune Green Hotel in Murang’a town. The meeting attracted 49 participants comprising 36 victims, 2 representatives from GIZ, and 11 representatives from the media. Some of the victims were affected directly by historical injustices; others were representatives of victims of historical injustices while some were victims of ongoing injustices. They were mainly small scale tea farmers and businessmen and women from the upper part of Muranga County.

Though most of the participants were aware of the TJRC process, most of the participants did not know that the TJRC report was released and were therefore not aware of its findings and recommendations. Participants expressed the fear that the TJRC report, like other reports of Commissions of Inquiry, would just be shelved and no action taken.

From the meeting it emerged that the key historical injustices in the region related to:

i. Extra-judicial killings. The meeting established that though crime was a matter of concern in the region, the strategy applied to address it was inadequate. Participants raised concerns over the previous regime’s crackdown on alleged Mungiki adherents which they felt was unfair and unlawful as innocent individuals were executed. The meeting further established that some of the members of Mungiki were actually police officers who used their offices as a cover for their illegal activities and they still hold office. It was noted that those officers who ordered the crackdown had not been held accountable for their actions.

In spite of the foregoing, the team observed that participants were not very open about the problem of Mungiki and extra-judicial killings even though they acknowledged the same as a challenge.
ii. **Economic Injustices.** This matter stood out as a historical and an ongoing violation. It elicited passionate discussions from participants. The meeting established that the main complaint related to an ongoing violation emanating from the relationship between small scale tea farmers and the Kenya Tea Development Agency (KTDA) with specific reference to Githambo Tea Factory.

The main issues raised related to the decision making processes at the factory, where the representatives of the tea buying centers were locked out of key meetings and are further not consulted on key issues affecting the farmers; rules that appear skewed in favor of the factory since farmers are required to sign a contract whose terms are discriminative against the farmers as it appears to transfer ownership of the tea bushes to the factory and change the relationship of the farmer to a supplier; inadequate complaints mechanism to the extent that farmers are not allowed to report complaints and where they do they are victimized by the factory; inadequate consultation between farmers and the factory since meetings are held early in the morning to lock the key stakeholders out; in that the factory decides on the quality of the tea to be processed, unfair business practices where the factory has not put in place a proper schedule for picking tea from the farmers; corruption and arbitrariness where farmers feel that local administration appears to work in favor of the factory and not in the interests of farmers; harassment and intimidation by the factory through filing cases against farmers, singling out individual farmers and intimidating them to sign unfavorable agreements and branding farmer’s rights activists Mungiki.

The meeting established that only a few participants presented these claims to the TJRC by filing a memorandum with the Commission in November last year. However, the TJRC did not make any specific findings with regard to the foregoing issues. Further the team observed that the violations were ongoing as opposed to historical injustices.

iii. **Unlawful detention and torture.** Participants indicated that unlawful detention and torture was a challenge in Murang’a since some of their leaders were illegally detained during former President Moi’s tenure. The meeting singled out political leaders such as Kenneth Matiba and Charles Rubia from the county who they said were detained and tortured for their position on party democracy. Participants recommended varied forms of reparations such as compensation to their families; payment of medical fees for Mr. Matiba; apology from the President for the violations suffered by the individual victims, their families and the larger Murang’a community; protection of Mr. Matiba’s properties and investments.

Following the forum the team held discussions with county government officials notably the Deputy Governor and the Deputy Speaker and highlighted the findings of the report with them. From the discussions with the Deputy Governor, there was no commitment to address some of the concerns that emanated from the forum. Further, the Deputy
Governor held the view that there was no need to “open up old wounds” in the name of transitional justice since according to him “human rights were a very delicate subject” which would not be easy to tackle.

However, the Deputy Speaker was very receptive to the team and the report. He appeared to have a good grasp of the historical injustices in the area indicating that one of the commitments leaders of the area had made was to visit Mr. Matiba one of the county’s national hero. Further, he indicated his commitment to table the report in parliament in order to address some of recommendations affecting the county. He further committed to hold talks with the Speaker and other committee members to deliberate on ways of addressing the issues highlighted in the report.

The team thereafter met with a representative of the CJPC who highlighted the issues in Murang’a. She committed to disseminate the report to other civil society organizations in the area as well as church leaders.

Key outcomes of the forum are:

i. The forum was critical in raising awareness about the TJRC report in an area where it was otherwise unknown as well as the provision of an avenue of expression of issues and concerns by the participants.

ii. Following the media coverage of the report, the Cabinet Secretary invited one for the victim groups on marginalization. The Governor also asked for copies of the memorandum and the two engagements are ongoing.

5.4 Wajir

Three forums were held at Rhamu, Wajir and Kutulo within Wajir County on the 8th, 13th, 15th September 2013. A total of 600 people were reached in the forums. Most of the victims were affected directly by historical injustices, others were representatives of victims of historical injustices while some were victims of ongoing injustices. They were mainly survivors of the Wagalla massacre.

Though most of the participants were aware of the TJRC process, having had participated in the process and mainly on the concern of the Wagalla massacre. The attendants of these forums were asked KNCHR to pressure the government to ensure that the report was not shelved like other reports preceding the TJRC.

The KNCHR team from the North Eastern Regional Office (NERO) relied in the summary report which captured the themes in the report that affected the area as well as highlighted salient features and recommendations.

From the forums, it emerged that the key historical injustices in the region related to the underlying factors of the suffering they faced for years are application of separate laws to this side of the country. Some of this laws include District Ordinance of 1902 declared that...
declared Northern Frontier District (NFD), made up of Wajir, Mandera, Ijara, Garissa, Isiolo, Moyale and Marsabit districts a closed area.

The above meant that movement in and out or the region was only possible when using a pass. The Special Districts (Administration) Ordinance of 1934, together with the Stock Theft and Produce Ordinance of 1933, gave the colonial administrators ‘extensive powers of arrest, restraint, detention and seizure of properties of what was described as hostile tribes’. This provision also introduced the possibility of using excessive force on residents. These powers were often abused when government operations were carried out.

The NERO also managed to meet the Governor of Mandera County and shared the findings of the report as well as the summary version. The Governor was happy that a shortened version was produced as the over 2000 page report was too cumbersome to read. He further thanked the team for flagging out region specific areas of the report and promised to rally his fellow governors and their respective governments from the former NFD to brainstorm on the report and its recommendations and how the region could benefit from the same.

The key issues in the region are;  

i. **Unlawful killings, torture and disappearances.** The Shifta War for instance led to an estimated 2,000 to 7,000 lives were lost during the shifta war. The separatist movement are said to have committed violations but to a smaller scale compared to the Kenyan military. Many were tortured and left maimed. The participants demanded that the office of the president has also been tasked to public Arusha agreement signed on 1967 that has ended the shifta war as a way of unmasking key perpetrators among them Brigadier Joseph Ndolo and Jackson Mulinge

ii. **Marginalization.** Based on the above, it therefore meant the region suffered gross marginalization and was characterized by politicized wars and denial of state resources.

iii. **Massacres.** The three massacres that have left have left a scar in the hearts of many inhabitant of this region include wagalla massacre, Karatasi massacre and Malkamari massacre. The residents of kutulo were versed with the wagalla incident as some survivors of the mind boggling occurrence were part of the audience. However, NERO team demonstrated the depth of the TJRC investigation by sharing the following signal sent by the then PPO, Aswani to Wajir at 8.20pm on 9th February 2013, one day before the massacre.

The key outcomes of the Wajir forums are;  

i. The participants of the stakeholder’s forum matched to the governor’s office and got audience with the entire Wajir County government at a public verification forum.
ii. The elders submitted the TJRC report as well as their request for support from the County government in following up the recommendations of this report. The county government promised to meet the team at a later date so as to get a deeper light of the report and brainstorm on how to approach the whole report but promised to help follow up the recommendations.

iii. The County Governor promised to forward our request for implementation of this report to the Council of Governors so that the effort becomes one with a national outlook and backing.

iv. NERO managed to facilitate the setting up of an advocacy network after holding a stakeholders forum of stakeholders from the entire County of Mandera and comprising of NGO’s, CBO’s, FBO’s and other interested persons (totaling to 22 stakeholders) this network will among other issues, follow up the County Government on the promise noted above.

5.5 Kitale

The North Rift Regional Office conducted 2 consultative forums and 8 public forums.

The 2 consultative forums for Media Practitioners and Opinion leaders from Elgeyo-Marakwet and Uasin Gishu counties. The consultative forum in Elgeyo Marakwet was held on 6th September 2013 at Keelu Resort hotel, the forum was attended by 25 Participants from the entire county; in attendance were 11 Women and 14 Men. The consultative forum in Eldoret on the other hand was held on 9th September 2013 at Marriot Hotel Eldoret, the forum was attended by 26 participants 10 women and 16 men

The Consultative forums sought to create awareness on human rights and the recommendations of TJRC among the opinion leaders and media practitioners in the counties of Uasin-Gishu and Marakwet, so that there can be an increase in respect for and greater enjoyment of fundamental human rights in Kenya and a strategic push for the implementation of the TJRC recommendations specific to these regions.

In both the forums the participants were taken through the TJRC report. The participants took issue with the general manner in which the recommendations were worded and the apathy in the implementation of the recommendation. The participants however conceded that the TJRC report would form a good basis for seeking the implementation of the recommendations and holding the government accountable in respect of the timelines provided for in the report and the implementation of the recommendations.

The key outcomes are:

i. The Members of the county assembly of Elgeyo Marakwet present in the forum undertook to put as an agenda for discussion the issue of TJRC implementation in their county Assembly, to explore ways of ensuring that the recommendations
specific to the county are implemented. The North rift regional office is currently working with the county assembly and therefore it will be easy to monitor this result though tracking of the Order papers.

ii. The Media practitioners in the region committed to take up the issue of TJRC recommendations and report on the same both in print and Electronic media.

iii. Opinion leaders promised to push both central and county governments to implement the recommendations.

iv. The media practitioners and the opinion leaders agreed to collaborate and join the regional office in the TJRC report dissemination forums in the region.

The Participants pointed out the need to disseminate the TJRC report to the populace especially in the areas that were affected by gross violations in the region, the participants from Elgeyo Marakwet County proposed Murkutwa and Biretwo-Kapsowar while those from Uasin Gishu County suggested Ndaptabwa and Ngarua in Burnt forest.

The North Rift regional office in collaboration with local leaders and Community based organizations further held 8 Public dissemination forums in Elgeyo Marakwet, Uasin Gishu and Turkana counties. The forums were held between the 1st September and 19th Sept 2013. The forums were held in Murkutwa, Biretwo/kapsowar, Ndaptabwa, Ngarua, Loteleleit, Lokipoto, Lochua and Nakukulas. The forums were attended by over 2000 participants about 1200 men and 800 women. In the forums over 1000 copies of the simplified version of the TJRC report were explained and distributed to the participants.

The participants in Most of the areas visited appreciated the efforts of the commission and the partners to simplify the TJRC report; there was skepticism of the implementation of the recommendations given the past experiences. The participants were taken through the TJRC process of statement taking, Hearing, report writing and the implementation of the report, in each location the participants were taken thorough specific recommendations made in the report touching on their regions.

The public found the forums informative and useful because some of the members of the public were not aware that the report had been released, some were aware that the report had been released but had not had the opportunity to access the report.

Apart from discussing the TJRC recommendations the members of public were taken through HRBA (Human Rights Based Approach). In the process the Commission formed partnerships with among others North Rift Human Rights Network (HURINET), Peace Net and Lokichoggio, Oropoi, Kakuma Development Organization (LOKADO) and Crescent Integrated Community Link Organization (CRECKO).

The Regional office experienced a challenge in convincing the members of the public about the government’s goodwill and commitment to implement the TJRC recommendations. The ongoing ICC trials had a negative effect in the efficacy of the planned activities with the members of the public viewing the commission suspiciously having played a role in
producing the post-election report. However, after clarifying and separating the issues, the meeting went on well.

Those who attended the forums raised the following in regard to the TJRC report:

i. The public in Murkutwa requested the commission to help them erect a monument in remembrance of the victims of the Murkutwa Massacre and to be considered for reparations given that some of them lost their relatives and their livelihood due to the massacre.

ii. The members of the public from Loteteleit and lokipoto stated that they moved from their original homes due to insecurity, they requested the commission to hold bilateral talks with the county commissioner to beef up the security in the region to enable them go back to their homes. The commission has since liaised with the regional commissioner and the county government who have promised to address the issue as soon as the county security meeting is held.

iii. The commission to continue with public forums so that the knowledge of the public could be increased in respect to transitional justice issues. They also requested the commission to sensitize them further through radio programmes that are aired in local languages which they easily understand, to enable them claim their rights.

5.6 Nairobi

The meeting was held on 30th September 2013 at the Kenya School of Monetary Studies (KSMS) and a total of 43 participants attended the meeting. The participants were victims and survivors of historical injustices, GIZ officials and KNCHR officials.

The participants were aware of the TJRC process and majorities were aware that the report had been released though not aware of the contents and especially the recommendations.

The Participants were mainly survivors of the extra-judicial executions (mainly widows), Nyayo house torture chamber survivors, victims of attempted coup crackdown, families of victim’s political assassinations, former political prisoners/detainees.

Key issues in the Nairobi region are;

1. **Extra-Judicial Killings, forced disappearances and assassinations.** With the killing of prominent leaders both in political and economic spheres, Nairobi stands as the epicenter of extra-judicial killings. These include the mysterious deaths of Tom Mboya, Pio Gama Pinto and J.M. Kariuki which have not been fully resolved to date.

   Nairobi region has also witnessed many cases of youth killings in the pretense that the government is fighting organized criminal outfits. Some of the participants noted that their husbands, brothers and children were picked by police officers and have disappeared without trace while others have been found dead either in mortuaries or forests.
2. **Torture** - With the failed 1982 coup, the agitation for multi-partism and the fight for constitutional reforms, the region was a hotbed of efforts to silence the so called dissidents whether real or imagined. As a result, many political detainees were sent to the infamous Nyayo House torture chambers and also in notorious places like Nyati House and maximum prisons. The participants noted that many of their colleagues died as a result of the torture.

Some of the survivors who attended the forum noted that high placed people in government were in charge of the torture operations and wondered why the first and second president have never been questioned over the matter. The survivors who have to be under regular medical checkups and without regular income called for the speedy implementation of the TJRC report so that justice can be done.

3. **Illegal detention** - Some of the participants noted that they were detained un-procedurally and illegally. This so many people being subjected to very harsh prison conditions where they were subjected to hard labor. Others were put under house arrest and as a result, their families were subjected to untold suffering from government agents.

While the victims acknowledged that the state had started acknowledging that there was illegal detention and torture by awarding heavy payments to those who have gone to court, they noted that the state should come clear and prosecute those who were behind the heinous acts.

The victims of 1982 attempted coup crackdown took issue with the report citing that they case was not given prominence and asked KNCHR to ensure that justice is upheld. This was echoed by survivors of the Nyayo House Torture chambers and others who were held in other places of detention like police stations and prisons.

Those who attended the forums raised the following in regard to the TJRC report:

i. They challenged KNCHR to ensure that the implementation of the report is speeded up to ensure that victims, survivors and their families get justice.

ii. Though skeptical that the leadership in Kenya may not support full implementation, they noted that the report sets a good platform for victims and survivors to demand for justice.

iii. They noted that they have a role to play in ensuring that the victims of historical injustice get reparations and other methods as recommended by the TJRC report.

5.7 Nakuru
The meeting with victims and stakeholders was held at Jumuia Resort in Nakuru. The forum attracted 52 participants—3 victims, the speaker of Nakuru county assembly, one person from Nation media and 48 stakeholders from Nakuru county. The victims were affected directly by historical injustices; others were representatives of victims of historical injustices while some were victims of ongoing injustices. Nakuru is a cosmopolitan town which has different ethnic group.

Most of the participants were aware of the TJRC process and 3 individuals who attended the forum were victims of historical injustice. Most of the participants did not know that the TJRC report was released and were therefore not of its findings and recommendations.

Some of the participants initially felt that the report did not need to be implemented because the constitution appeared to address all the shortcomings. This was coupled with the feeling that implementation of the report would be affected by the fact that some key perpetrators hold powerful positions in government and would probably not be committed to its realization for instance in relation to the chapter on land. Furthermore, participants expressed the fear that the TJRC report, like other reports of Commissions of Inquiry, would just be shelved and no action taken.

However, the participants eventually agreed that TJRC report gave a very good opportunity to fight impunity for victims and survivors eventually to have a platform to demand for reparations. The participants concluded that that the process would result in justice for historical injustices that have persisted in the area

Key issues in the region are

i. **Unlawful detention, torture and ill-treatment** - Participants indicated that unlawful detention and torture was a challenge in Nakuru county some of the leaders were illegally detained during the era of former president Moi especially Koigi Wamwere. The meeting said the police and military force used unlawful detention and torture during security operation especially Mount Elgon.

ii. **Ethnic Tension, land and politics** - The meeting established that though crime was a matter of concern in the region, the strategy applied to address it was inadequate. Participants raised concerns over the Mount Elgon region conflict which was as a result of the failure of the government to address land related injustices suffered since colonial era up to now.

iii. **Extra Judicial Killings** - This was mainly, during the post election violence and the government crackdown on the Mungiki adherents.

The Speaker of the County Assembly, Hon. Susan Kihika pointed out that TJRC report laid a foundation of forgiveness, reconciliation, peace, fair treatment and justice. She encouraged the people of Nakuru County to work together in seeking transitional justice and engage the participants in open, candid consultation that ensure lasting solution and reconciliations. Further, she indicated her commitment to table the report in parliament in order to address some of recommendations affecting the county. She further committed to
Hold talks with the Speaker and other committee members to deliberate on ways of addressing the issues highlighted in the report. She also appreciated the good work KNCHR is doing.

Members of the civil society led by Mr. Paul Kemunche Masese appreciated the good work by KNCHR in disseminating the TJRC report. Masese stressed the point that there is need for civil society to work together with constitutional and especially the National Land Commission to investigate the land issues in the region.

The KNCHR team met the Governor of Nakuru County, Hon. Kinuthia Mwangi and held discussions with county government officials, notably, the Governor and Deputy Governor and highlighted the findings of the report with them. The official felt there is need to devolve to the county level and they appreciated the good work KNCHR is doing.

Key outcomes of the Nakuru forum are;

v. As this was the first opportunity to for many stakeholders to interact with the report. This helped in setting awareness creation process for the county through the stakeholders represented.

vi. The forum also created a space for community members to engage directly with Speaker of the County Assembly who promised to support the efforts as a way of promoting reconciliation.

vii. The support exhibited by the senior County Government officials to support the process is an indicator that the County Assembly is willing to support the implementation.
PART 6: CHALLENGES

The following challenges were encountered in the organizing and holding the forums;

i. **Resources** - Though KNCHR would have wanted to hold more forums, the limitation of the resources forced us to hold few forums with limited numbers thus reaching fewer people.

   As the resources posed a challenge to cater for more days, the discussions had to be summarized hence compromising on the debates. It would have been better to hold the forums at least for 2 or 3 days to ensure maximum participation and better output.

ii. **Language barrier** - In some regions like Makueni and Kitale, some of the participants had the disadvantage of language and occasionally we had to translate the discussions. This further strained the little time we had for the forums.

iii. **Political interference** - The ICC debate and the alignment of political factions in some regions like Murang’a and Kitale with some participants taking the TJRC process as a political process. The ongoing ICC trials had a negative effect in the efficacy of the planned activities with the members of the public viewing the commission suspiciously having played a role in producing the post-election report

iv. **Skepticism and apathy** - Some of the participants in the forums indicated that there had been many other commissions of inquiry and efforts by NGO’s and other actors. The fact that many perpetrators in the report are in key positions of power raised fears as to whether the report would be implemented.

v. **High expectations** - In some regions, participants raised high hopes and expectations that KNCHR would help in solving their problems within a short period. This was because they thought KNCHR had replaced the TJR Commission.

The facilitators however explained in detail all the concerns raised by the participants thanks to a prior meeting in which the facilitators discussed the possible challenges and the possible remedial actions.
PART 7: KEY OUTCOMES

In Summary, the following were the key outcomes:

i. **Awareness creation**- Noting that many participants were not aware that the report has been published, this provided an opportunity for them to get acquainted with the contents of the TJRC report. Further, the distribution of over 3000 copies of the report meant that many more people would be reached hence improving the engagement of the implementation process.

ii. **Cooperation of the devolved governments**- The participation of the County Governor in Makueni and MCAs in other regions and the subsequent courtesy call meetings in the County government offices was a great success. In all the regions, the county government officials promised to support the survivors and victims of historical injustices and the implementation of the TJRC report.

iii. **Stakeholders’ synergy**- Since transitional justice network stakeholders were in the forums, their acceptance to form networks to follow up on the implementation was a success.

iv. **Empowered Victim’s** - With the victims noting that they had a role to play in the implementation process; it was a boost to the process since the acknowledgment was the first objective in holding the forums.

v. **Informed way forward for KNCHR**- KNCHR gathered feedback strategically from the participants and it informs the next course of action as indicated in the recommendations overleaf.
PART 8: RECOMMENDATIONS

i. There is need to hold more forums as the number reached was far too less the victims and survivors who engaged with the TJRC process.

ii. More reports should be printed and distributed so as to ensure that more people are reached. The summary reports proved to be very popular with the participants as they are easy to read and understand.

iii. More County governments should be engaged in the process to ensure that they have local process on traditional justice. KNCHR and KTJN members should strive to extract the relevant issues for the counties and share with the County Executives.

iv. The stakeholders need to be empowered to ensure that they promote the implementation process at the regional levels. KTJN should ensure that more local networks are empowered for synergy.

v. KNCHR and KTJN should ensure that legal and legislative hurdles which may derail or curtail the implementation of the process are cleared so that victims can get justice.

vi. There is need to increase public awareness on the report through mass media and national forums to ensure that the TJRC agenda is not lost.

vii. KNCHR and KTJN should mobilize and pool resources to ensure that the process does not lose momentum.

viii. KNCHR and KTJN should push for few and strategic test cases on issues mentioned in the report by initiating Public Interest Litigation (PIL) cases so as fast track the implementation of the process.

ix. KTJN should lobby Parliament to ensure that the report is discussed and accorded the required legislative support to ensure that the report is not shelved.

x. KTJN should lobby the President to ensure that the report his implemented as per his earlier comments that he would ensure that justice would be delivered.
PART 9 : CONCLUSION

KNCHR records this as a successful engagement with the participants, County government officials and stakeholders in transitional justice. The fact that some instant results were recorded during and immediately after the forums is indeed an indicator of the success.

KNCHR however notes that there is still a lot of many Kenyan paining because of the many historical injustices which have not been resolved to date. It is because of this realization that KNCHR will remain true to the course in pushing for the implementation of the TJRC report and any other transitional justice process.

The work and challenges will lay ahead are gigantic and KNCHR will strive to ensure that partnerships are key in the realization for the rights of victims of historical injustice. With the pledges made by the participants and other county government officials, KNCHR is confident that the results will be achieved, regardless of the challenges and opposition which we may encounter.