

## A Farce IN THE NAME OF TJRC

Media has build trust with Kenyans. Kenyans expect honest but brutal truth from the media. Whether media is privately or state owned accountability is key. But a question is emerging: are you being selective on accountability issues you want to pursue?

Kenyans in the past few months openly and candidly put the Chair and the entire Truth Justice and Reconciliation Commission (TJRC) to task over serious allegations that contravene the TJR Act 2008. These matters have not been addressed neither resolved. When one goes through media reports, a clear message emerges: let the TJRC go on. But go on where? To achieve what?

A dishonest and insincere TJRC Commissioners purporting to be conducting public hearing are exposing Kenyans and particularly victims of past Human Rights violations to more serious dangers. You are having Commissioners who are so dishonest and insincere. On one hand they write opinion in the press, letter to the Justice Minister and petition to Chief Justice all seeking removal of the Chair but on the hand are purporting to be very busy working under the same chair. We know we have our own colleagues who are supporting this discredited

TJRC. We have confronted them. I think it is important to put in perspective the real issues behind the failure of the Truth Commission in Kenya. First, for any TRC to succeed the following are very instrumental: proper understanding of the context and political transition under which the TRC is being set up; conceptualizing a TRC under the first conditions i.e. context and political transition (in our case, we are experiencing reforms not overthrow of a regime or negotiation after an armed conflict); and application of the correct and fair operational procedures. What is happening is a pure gimmick not a

TRC. It has no basis. The performance, delivery and impact of any TRC is evaluated against the above factors plus the solidness of the process leading to the setting of the TRC (consultativeness, ownership and participation of the victims and the widest society); operation, management and soundness of the product; and the impact of the process and the product. It was expected that Kenya TJRC would be the best. It failed to observe and learn lessons of more than 35 past TRCs. It has nothing to show in applying the best practices and standards. What we have is a farce. There is nowhere in the world I know of where a TRC is crying for protection from state. State is a culprit. Security and legitimacy of the TRC is victims and people. Which reconciling or healing can come out of such a process? Reconciliation is not about jumping to each other and hugging and kissing. It is brutal confrontation of truth and addressing genuine grievances of the victims.

The truth is: we have a TRJC suffering grave credibility and integrity crisis but as usual we are burying our heads in the sand and living in denial; it has no rules of procedures publicly debated, adopted and gazette; no meaningful and purposeful public outreach and awareness to the victims and generally public to understand the real intention, purpose and focus of the TJRC; no victims and witnesses supportive and protection mechanisms jeopardizing the exercise and those engaging with it; no prior statement taking and analysis to identify the window cases and prioritize the public hearings; no public known and promulgated TRC work plan; effective participation and engagement of victims, media and civil society irrelevant/ignored; fair procedures and regulations such independent data and information collection(research) and investigations , processing conditional amnesty and reparations; secure information analysis and storage lacking; local and international support almost nil; faulty legal framework and minimal goodwill; and non-existent operational and financial independence.

The key question; whose and what TJRC is this one? I think we(Kenyans) have lived a lie (denial/amnesia) for so long. It is either we break from this past or it consumes us all