

Justice for Economic Crimes?

Kenya's Truth Commission

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Many countries emerging from dark periods of extensive political conflict or oppression have launched truth commissions in an effort to acknowledge past violations of human rights, achieve a measure of justice for victims, and foster communal healing and reconciliation. Most commonly, such commissions are designed to shed light on injustices such as enlistment of child soldiers, forced disappearances, police violence, wide-scale abuse of women, assassinations, murder, and torture. However, in recent years, people have become more aware of the hollowness of transitional justice and reconciliation measures that are blind to social and economic injustices. Rama Mani, for example, suggests that transitional justice structures must consider whether and how to address war economies and corruption, in particular, if the field “is to achieve its intended goals.”¹ Indeed, Dustin Sharp sees a new preoccupation with considering a place for economic violence and economic justice within transitional justice scholarship.² Concomitantly, a small number of truth commissions have examined and sought justice for a limited set of economic crimes and atrocities.

Kenya's Truth, Justice and Reconciliation Commission (TJRC) (2008–13) was established with an innovative mandate that explicitly included a wide range of alleged economic injustices for investigation. Many people believed that the root causes of Kenya's 2008 postelection violence lay in economic crimes, particularly the misappropriation of land, perpetrated against Kenyans since independence. During its investigatory phase, the TJRC vigorously sought to fulfill this part of its charge, soliciting evidence of economic violations and pursuing allegations. For their part, Kenyans, in testimony and submissions, recounted an extensive body of perceived economic injustices, displaying a significant appetite for revealing such violations. However, a few specific findings regarding economic crimes led to grave conflict between the TJRC and the government of President Uhuru Kenyatta and within the commission itself. The commission's final report was released in a cloud of scandal when some of the commissioners refused to sign the volume covering economic crimes, accused the president's office of altering their

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work, and publicly issued a dissent. Some high-ranking government actors apparently found the commission's findings regarding land misappropriation either intolerable or threatening.

Kenya's path-breaking effort to more fully incorporate economic justice into transitional justice can illuminate the possibilities and limitations of this expanded agenda. This article assesses the way in which the TJRC operationalized its mandate and the types of data it employed to investigate economic injustices; summarizes the TJRC's findings regarding economic crimes, giving particular attention to misallocation of land; and considers the political battle sparked by select TJRC conclusions concerning economic crimes. It reaches four conclusions. First, convincing evidence of linkages among economic and political violations can result when a broad range of human rights crimes are investigated. Second, a perennial obstacle in truth-seeking endeavors continues to plague efforts to investigate economic violations: truth commissions, frequently incapable of assessing the veracity of individuals' testimonies, struggle to precisely identify the nature of the truth they have "found." Third, at the same time—and perhaps for some of the same reasons—commissions may rely heavily on existing secondary sources and reports. This practice calls into question their unique contributions to justice. Finally, truth commissions that address economic violations may provoke vehement political backlash from government officials implicated in long-standing and continuing economic violations.

Truth Commissions and Economic Justice

Violations of civil and political rights have commonly been the major concern of truth commissions. South Africa's Truth and Reconciliation Commission, for example, focused on uncovering responsibility for crimes such as state-sanctioned assassinations, bombings, and abuses within the ranks of the African National Congress. Chile's Rettig Commission analyzed political repression and investigated kidnappings, disappearances, killings, and torture. As Ruben Carranza notes, "Civil and political rights violations are seen not only as justiciable but also as susceptible to being redressed through transitional justice. Socioeconomic rights violations, meanwhile, usually are considered non-justiciable and therefore better addressed by a catch-all reference to development programs."³ Sharp regards this bias against addressing socioeconomic violations as a "blind spot" that distorts assessments of violence and injustices, hampering entire justice-seeking endeavors.⁴ For example, the investigation of South Africa's Truth and Reconciliation Commission of a narrow range of crimes produced a "truth" about the apartheid years that captured the experiences of a minority of South Africans—essentially just state agents and political activists. Mahmood Mamdani argues that as a result of ignoring victims of economic crimes, such as the 3.5 million who were forcibly removed from their lands, "the TRC wrote the vast majority of apartheid's victims out of its version of history."⁵

Many scholars trace transitional justice's bias in favor of political over economic crimes to its "parent" movement—the broader human rights field.⁶ The division between civil and political rights on the one hand and economic, social, and cultural rights on the

other came at the beginning of the global postwar human rights movement when the International Covenant on Civil and Political Rights and International Covenant on Economic, Social, and Cultural Rights were written as two separate documents. The division was politicized during the Cold War period with the West regarding violations of political and civil rights as essentially more important.⁷ Being of Western lineage, transitional justice theory, at least initially, imported this implicit privileging of civil and political rights.

Increasingly, however, scholars, activists, and practitioners are calling on transitional justice structures to expand their scope and seek truth and justice for victims of economic violations. Chandra Sriram identifies three types of arguments made for this broader agenda: human rights are indivisible, economic and political crimes commonly coexist, and conflicts will not be prevented if economic injustices are not corrected.⁸ To see no hierarchy of rights and therefore to demand protection for comprehensive human rights is gaining increasing purchase.⁹ Close examinations of transitioning countries do reveal that frequently, as Carranza notes, “both civil and political rights and socioeconomic rights abuses are committed against overlapping sets of victims by an invariably overlapping set of perpetrators.”¹⁰ Lisa J. Laplante concludes that “even with trials and reparations, if economic and social inequality go unaddressed and the grievances of the poor and marginalized go unheard, we are left with only uncertain guarantees of nonrepetition.”¹¹ A number of case studies from Asia and Africa have led many scholars to agree.¹²

In addition, if truth commissions are to gain credibility from their target populations, they need to meet victims’ expectations, and research around the world is revealing that victims are demanding justice and reparation for economic violations.¹³ For example, the majority of Togolese people surveyed by Lonzoou Kpanake and Etienne Mullet agreed that a main goal of truth commissions was “documenting the possible economic and social exploitation of some groups by other groups.”¹⁴ Similarly, in Makeni Sierra Leone, Gearoid Millar found that most residents “felt that the work of a transitional justice project aimed at bringing peace to the country must include the construction of schools, medical facilities, roads, etc., not trials, nor truth telling.”¹⁵ Victims want redress for economic violations.

A small number of truth commissions determined that they could not avoid considering economic violations that permeated the periods of political violence they investigated. Chad’s truth commission (1990–92) charted new territory when it received an explicit mandate to shed light on allegations of former president Hissène Habré’s illegal financial dealings. The truth commissions of Sierra Leone (2002–4) and East Timor (2002–5) determined that widespread economic injustices were among the antecedents and root causes of the violent conflagrations that engulfed those countries in the 1990s. Their final reports documented patterns of extensive economic crimes. Sierra Leone’s commission identified specific companies complicit in crimes in the diamond and timber industries, concluding that “the central cause of the war was endemic greed, corruption and nepotism that deprived the nation of its dignity and reduced most people to a state of poverty.”¹⁶ The mandate of Liberia’s truth commission explicitly included investigating

“economic crimes, such as the exploitation of natural or public resources to perpetuate armed conflicts.”¹⁷ It documented evidence of prolific corruption, illegal land acquisition, and systematic economic deprivation that benefited political elites.

Analyzing five African truth commissions’ forays into economic violations, Sharp offers three possible explanations for why they pushed the envelope of transitional justice’s scope. First, he suggests that Chadian authorities working largely in isolation were “not heavily influenced by the dominant [human rights / transitional justice] script.” Second, by the time these commissions were being designed in the early twenty-first century, “work on economic and social rights had become much more prevalent in the UN and IGO [intergovernmental organization] world more generally, with activists vigorously pressing the need to give both civil and political and economic and social rights equal pride of place.” Finally, economic violence so thoroughly permeated the conflicts in these countries that “to focus exclusively on violations of physical integrity would have seemed wholly inadequate.”¹⁸ Thus, more frequently, truth commissions have expanded to encompass economic and social violations.

Yet, this new agenda has inspired some calls for caution. Even commissions that remain focused on investigating civil and political crimes cannot make comprehensive investigations and conclusions as they struggle to deliver in extremely tight time frames and operate with precious little funding. Overloading truth commissions further enhances the chances that they will be forced to make unrealistic promises and ultimately fail to reach the heightened expectations for justice and healing.¹⁹ Although advocating for this expanded agenda, Sharp sees a need for careful consideration of the interplay between—and unique capacities and limitations of—transitional justice and broader development goals and actors.²⁰ Moving into economic reparations and initiatives to correct economic injustices brings transitional justice efforts into the realm of more long-term “development work.” Can short-term transitional projects make unique, fruitful contributions? Finally, commissions that investigate economic violations may face increased political resistance “as problems such as corruption are often widespread and implicate powerful economic and political actors in transitional contexts.”²¹ Consequently, Roger Duthie supports a relatively limited inclusion of acts of economic violence, “particularly those that constitute international crimes and lead to widespread and serious economic and social rights violations,” into transitional justice projects.²²

Kenya’s Truth, Justice and Reconciliation Commission

Early discussions of a truth commission for Kenya began in 2002 when President Mwai Kibaki and his National Rainbow Coalition government ousted the Kenya African National Union from the dominance it had enjoyed under presidents Jomo Kenyatta and Daniel arap Moi. A task force was launched to consider whether a truth commission was necessary to address allegations of past human rights violations. Ultimately, it found evidence of unsolved violations and economic crimes that needed investigation, concluding that Kenyans believed a truth commission would benefit their country.²³ Regarding vio-

lations of economic, social, and cultural rights, the task force called for a limited agenda. While noting the indivisibility of all human rights and recognizing that in Kenya “economic crimes were committed as part and parcel of human rights violations,” the task force was very concerned that “economic crimes are a difficult matter to investigate and establish culpability.”²⁴ Consequently, it urged that a truth commission investigate just a “selected set of economic crimes that have direct bearing on the enjoyment of economic, social and cultural rights.”²⁵ But political support for a truth commission soon dwindled, and the government shelved the entire initiative.

After the violence that followed Kenya’s disputed elections of December 2007, the need for a truth commission was again considered. A National Dialogue and Reconciliation Process was launched to foster peace, political reform, and reconciliation and justice for Kenya. During those negotiations, the truth commission proposal was brought back to life, apparently by members of the international observers’ negotiating team led by Kofi Annan. Kenyan politicians eventually agreed to establish the TJRC and award it responsibility to foray into socioeconomic as well as political justice.²⁶

Addressing Economic Crimes

Kenya’s truth commission had a number of classic features specified in its act. “To promote peace, justice, national unity, healing, and reconciliation,” it received a mandate to establish an accurate record of past crimes against humanity and gross human rights violations committed by public officers as well as identify the causes of those crimes.²⁷ It could recommend prosecution of some perpetrators and amnesty for others under limited conditions. It could also recommend means of restitution, including reparations, for victims. The commission should hold public hearings and needed to publish a final report. Responsible for investigating crimes committed over a 45-year period, it had the longest temporal jurisdiction of any commission established to date.

Notably, Kenya’s commission mandate included gaining an accurate and complete record of economic crimes while a few economic violations, such as “grand corruption and the exploitation of natural or public resources,” were identified. Furthermore, the commission was to “inquire into the irregular and illegal acquisition of public land and make recommendations on the repossession of such land” as well as “inquire into and establish the reality or otherwise of perceived economic marginalization of communities and make recommendations on how to address the marginalization.”²⁸ However, unlike the effort taken to define the specific crimes that fell within the commission’s charge to investigate crimes against humanity and gross human rights violations, no extensive definitions of violations of socioeconomic rights were offered to the commission by Kenyan authorities.

Consequently, the truth commission sought to identify operational definitions of these socioeconomic violations. Eventually, the commission categorized its mandate into three realms: “gross violations of human rights, historical injustices; and other mandate areas.”²⁹ Convinced that “all human rights are indivisible, interdependent and interre-

lated,” it rejected the “traditional dichotomy between civil and political rights and socio-economic rights.”³⁰ Therefore, one way in which it approached violations of socio-economic rights was to consider “the socio-economic impact of violations that targeted individuals’ bodily integrity or their civil and political rights.”³¹ It also regarded economic marginalization, economic crimes, and grand corruption as separate, independent violations.³² Regarding historical injustices, the commission determined that in public discourse in Kenya “the term refers to at least two things . . . the exclusion and marginalization (in terms of economic development) of certain groups or regions and a range of violations supportive of this phenomenon . . . [and] dispossession and inequalities in the allocation of land in a variety of ways by successive governments (or those associated with them) in pre-independence and post-independence Kenya.”³³ Land conflicts would receive considerable attention.

Yet, more legal grounding and specificity were required. Considering primarily Kenya’s obligations as party to the International Covenant on Economic Social and Cultural Rights and the African Charter on Human and People’s Rights, the commission determined that the Kenyan state was obliged to protect Kenyans’ economic and social rights (as identified in the documents), work to take active measures to foster the realization of those rights, and refrain from actions to deprive individuals of those rights.³⁴ Therefore, it would be a violation to perpetuate economic marginalization, which the commission defined as “a situation that is produced by the process through which groups are discriminated directly or indirectly in the distribution of social goods and services.”³⁵ Access to education, agriculture, and land were identified as indicators of economic marginalization.³⁶ Two types of misallocation of land were defined: (1) “irregular allocation of land” which refers to official actions and procedures in relations to land, leading to land acquisition, ownership, occupation and/or use which do not conform to applicable laws and regulations” and (2) “land grabbing,” meaning any illegal dealings with land that are “also conducted with wanton impunity, recklessness and [are] blatant and widespread.”³⁷ Thereby, some of the more widespread economic crimes were operationalized.

Findings Regarding Land Violations

The TJRC’s final report issues a damning indictment of every Kenyan government since independence, implicating each in extensive and persistent violations of Kenyans’ socio-economic rights. Individual chapters document economic marginalization, land injustices, and economic crimes and grand corruption. The commission concludes that state policies systematically marginalized five regions: the very impoverished North Eastern and Upper Eastern Kenya near the border with Somalia, Coast, Nyanza, Western, and North Rift. Each region is discussed individually with evidence of multiple dimensions of deprivation. The chapter on grand corruption addresses a small number of well-known corruption cases previously investigated in the courts or by other commissions. Still, the TJRC’s conclusions regarding land violations are arguably the most important. The scale of these crimes and the number of victims are immense, and the commission saw causal

links between land violations and ethnic and political tension/violence. Looking forward, the commission's report could direct positive reforms in this area. Yet, sadly, findings concerning the misappropriation of land became the lightning rod for attacks on the truth commission's work.

The commission concluded that land rights violations are ubiquitous in Kenya; victims' stories about particular experiences permeated the evidence provided. Indeed, more than 40 percent of the statements and memoranda submitted to the commission "related to land grievances and disputes."³⁸ The final report offers a compelling picture of the "complex variety of permutations" that land injustices have taken throughout Kenyan history:

Almost every type of public land was affected: from forest land, to water catchments, public school playgrounds, road reserves, research farms, public trust land, and land owned by public corporations and private individuals. Perpetrators of the injustices were equally varied and include holders of public office and government leaders at every level, the political and economic elite, church organisations, individuals and communities. Those who held sway usurped the institutions of government to their bidding including the legislature, the executive and the judiciary.³⁹

The commission concluded that right from independence in 1963, national and provincial Kenyan authorities have been responsible for systematically misallocating access to land. Rather than correcting the injustice of the colonial administration's illegal acquisition of huge amounts of land, the Kenyatta administration and subsequent governments "instead alienated more land from already affected communities for the benefit of politically privileged ethnic communities and the public elite."⁴⁰ These economic violations were found across the length and breadth of Kenya, have continued for decades, and have harmed tens of thousands of Kenyans.

Furthermore, the commission linked land injustice to political violence and determined that it "has been and remains one of the major causes of intra and inter-ethnic conflicts in the country."⁴¹ The report documents evidence of forced relocations, land grabbing, and land settlement schemes benefiting favored ethnic communities throughout Kenya's history, showing how "these . . . administrative, economic, and land policies . . . have bred a sense of division and hatred among Kenyan communities."⁴² Specifically, the commission concludes that land policies during the Kenyatta era helped perpetuate land inequalities in Central, Coast, Rift Valley, and Western provinces and "enrich the economic hegemony of the Kikuyu."⁴³ It notes that the Kalenjin and Maasai communities in particular feel "cheated out of their ancestral land through the resettlement programme instituted by the colonial government and later by the Kenyatta government."⁴⁴ The report also presents evidence of authorities using land to create and exploit ethnic division for political gains. Thus, unjust land policies and acquisitions by politicians are identified as a root cause of other human rights violations and crimes.

Looking forward, the commission also made recommendations for redressing land injustices. At the macrolevel, the commission identified six strategies for the Ministry of

Lands and the National Land commission: “[1] Design and implement measures to revoke illegally obtained titles and [2] restore public easements” and [3] survey and register remaining public lands; [4] “revoke illegally obtained titles to and [5] re-open all public beaches, beach access routes and fish landing beaches;” and [6] develop “a computerized inventory of all lands in Kenya.”⁴⁵ It concludes that provincial administrations across Kenya must be denied a role in redressing land-related inequities because their culpability in past violations has cost them popular legitimacy in this policy realm.⁴⁶ Striving to identify personal criminal responsibility, the commission named 127 individuals or firms whose alleged involvement in illegal land acquisition should be investigated by the National Land Commission. That number represented slightly more than half of all those referred forward to government authorities.⁴⁷

Insights Regarding Transitional Justice and Economic Violations

Kenya’s experiences applying truth-seeking to economic injustices reveal insights concerning truth commissions’ capabilities in this area. First, reflecting a ubiquitous problem for truth commissions, Kenya’s TJRC struggled to clearly identify and consistently apply both the type of “truth” it was presenting in its report as well as the amount and type of evidence required to identify a “truth” about economic violations. Second, the limited research capacity that plagues truth commissions was also evident in the TJRC’s final report. Finally, the TJRC’s experiences substantiate the concerns of those who fear heightened political opposition to truth commissions that seek to identify individuals and structures responsible for systematic economic crimes.

Defining Truth

Problematically, in its final report, Kenya’s truth commission presents no careful discussion of how it regarded truth or whether it saw different types of truths. Scholars and other truth commissions have noted that truth is a complex and contested concept. South Africa’s truth commission, for example, identified four types of truth present in testimony before it: factual or forensic, personal and narrative, social, and healing and restorative.⁴⁸

In their dissent to the TJRC’s final report, three commissioners suggest that the entire report be interpreted as presenting a true record of only what was presented to the commission in testimony. They write that they were willing to add qualifications to highly contentious sections of the report stating that the information presented “was provided by a witness who testified under oath to the Commission, to thus dispel the possibility that someone might think that by repeating what someone else had said the Commission was concluding that the assertions were true. This is of course a truism that applies to the entire Report. One of our tasks was to provide a narrative of historical injustices that included the perspectives of victims, perpetrators, and others.”⁴⁹

Does this mean that evidence in the report from testimony should be regarded as personal or narrative truth and not factual? Inconsistent language in the report makes it

difficult to determine this point. Places throughout the land chapter make clear that the commission is passing along statements without assessing their veracity. For example, “there is testimony from a group from the coast who said that their access to land diminished greatly with independence.”⁵⁰ In other places, qualifying terms like *apparently* and *evidently* are used in presenting testimony.

In most of the land chapter, however, declarative, conclusive language prevails. Take, for example, such sweeping assessments as, “Since Kenya’s independence, settlement schemes at the Coast have been fraught with irregularities and outright discrimination of landless coastal communities.”⁵¹ There are also assertions of specific cases of individual culpability: “The situation was worse on Monda Island where the then PC Mahihu took the opportunity between 1974 and 1976 . . . to forcefully acquire land on Manda Island from local people.”⁵² Was the commission convinced that these statements are true? If so, how did it arrive at definitive conclusions about the presence of violations? The TJRC’s objective was to establish “an accurate, complete and historical record of violations of human rights and economic rights” and “as complete a picture as possible of the causes, nature and extent” of those violations during its mandate period.⁵³ Therefore, uncertainty about which statements and interpretations the commission is verifying and which it is uncritically passing along gravely compromises the power of its assessments.

Research Capacity

The TJRC’s final report is quite dependent upon secondary sources such as published scholarship and previously released reports from other Kenyan commissions. A number of sections of the land chapter, for example, rely heavily on evidence from the 2002 Ndung’u Commission of Inquiry into the Illegal/Irregular Allocation of Public Land and the 1978 Report of the Select Committee on the Issue of land Ownership along the Ten-Mile Coast Strip of Kenya. That evidence is passed on uncritically by the truth commission. Although the commission was mandated to “consider the reports of the relevant commissions of inquiry,” its value comes under question when the TJRC fails to offer important corroborations to, or assessments of, previous reports.⁵⁴ Furthermore, the commission failed to fulfill its charge to “make recommendations on the implementation of such reports.”⁵⁵ Kenya’s truth commission, plagued by resource shortages, uncertain leadership, and at times a hostile political climate, could not convincingly demonstrate that such bodies have the capacity to independently gather and synthesize evidence of economic injustices. This failure raises doubts over whether truth commissions can be realistically expected to deliver on mandates that encompass social and economic violations.

Political Opposition

Although it had long been clear that the commission had very few friends in the Kenyan government, the blatant interference by the office of President Uhuru Kenyatta in the report’s land chapter was shocking. The integrity of the entire truth-seeking process was corrupted when the commission was forced to accept alterations to its final report under

pressure from the Office of the President. The battle that ensued within the commission demonstrated that procedures would be sacrificed to please politicians and led three commissioners to publicly denounce the process and refuse to endorse the land chapter. Findings of many extensive human rights violations were allowed to remain in the truth commission's report, but unknown people in the Office of the President apparently demanded changes to five paragraphs in the land chapter.

It appears that some of the changes were motivated by efforts to protect the image of President Jomo Kenyatta. Three of the five altered sections discuss specific land violations associated with the former president. For example, paragraph 257 was originally written as follows:

However, after Kenya attained independence in 1963, President Kenyatta unlawfully alienated to himself 250 acres of the land, especially portions on the beach. He also allocated part of the land to his friends, relatives and other associates. He directed residents that whatever was left of the trust land would be established as settlement schemes for their benefit. However, without following due procedures of law, he again took part of whatever remained for himself and his relatives. He also demanded that local communities that should have benefited from the trust lands accept payment of KSh600 per acre. When the locals declined to accept the money, he told them that whether or not they accepted it, the remainder of the trust lands would go to the government. That is how irregularly President Kenyatta took all of Tiwi and Diani trust lands at the expense of local people who immediately became "squatters" on the land and were subsequently evicted, rendering them landless and poor. By 2012, land in the former trust lands fetched Ksh15 million per acre.⁵⁶

In the final report, the paragraph reads, "However, in 1972 members of the local communities were evicted when a private individual unlawfully alienated 250 acres of the land to himself."⁵⁷ In another paragraph, reference to a wedding gift of government land from President Kenyatta to a family member is excised. That was not even a new allegation; the commission's source was a 2012 book on Kenyan history. But the paragraph was allowed to read only as follows: "There were peculiar cases of land grabbing and related malpractices during Kenyatta's administration which serve to illustrate how deeply the problem of land grabbing had cut into Kenya and the wanton manner in which key government officials, including the president, grabbed what should be have been public or communal land and 'dished' it to relatives."⁵⁸ Only the beneficiary's name was removed.

The other two deletions may have been efforts to remove potentially incendiary conclusions, but again many similar findings remain throughout the report. One alteration removed reference to the Kikuyu ethnic group as beneficiaries of settlement schemes in the Coast at the expense of local communities.⁵⁹ However, Kikuyus are identified throughout the land chapter as benefiting from land reallocation actions. Removed from another paragraph was an observation that a coastal secessionist movement might be inspired by land grievances caused by government violations.

The story of this interference by the Office of the President was made public by the three international commissioners—Judge Gertrude Chawatama, Amb. Berhanu Dinka,

and Prof. Ronald C. Slye—who sought to explain their refusal to sign the final report's volume containing the land chapter. They believe that a copy of that chapter, which the commission had agreed upon in early May 2013, was leaked “to individuals with ties to the State House.”⁶⁰ Subsequently, the Office of the President demanded and received an advance copy of the full final report prior to printing, interpreted as a condition for gaining a meeting with President Uhuru Kenyatta so as to present the report. Soon thereafter, some commissioners began to argue for substantive changes to the land chapter. According to the dissenting three, “It was at this time that a number of Commissioners, including at least one of the international Commissioners, received phone calls from a senior official in the Office of the President suggesting various changes to the Land chapter. These suggestions included the removal of specific paragraphs.”⁶¹ Over the next two weeks, the commission debated about whether and how to change the final report. It appears that on 17 May, the international commissioners, who opposed the alterations, were told that changes were indeed going to be made to the final report. It is unclear whether a majority of commissioners endorsed the changes.

The international commissioners immediately notified their colleagues that they would write a dissent and expected it to be included in the printed final report as stipulated by the TJRC's written procedures. Four days later, the printed altered report was handed over to the president without the dissent. The international commissioners had been notified that a majority of the commissioners had voted to exclude their dissent from the final report—an apparent violation of the procedures. Commissioners Chawatama, Dinka, and Slye were moved to reveal the interference by the Office of the President and release their original dissent in a press statement in early June 2013. Although they feared that this scandal would detract from attention to the good work of the TJRC, of which they were very proud, they felt that this “sad chapter in what had always been a challenging process” needed to be told.⁶² The dissent laid out their interpretation of the events regarding contact with the State House, debates, and decision making within the commission subsequent to their original approval of the land chapter and contained the entire original versions of the altered paragraphs. They clarified that they had no evidence that President Uhuru Kenyatta himself endorsed or even was aware of the interference by people in his office. Furthermore, they reiterated their firm support for all of the remaining content in the TJRC's final report.

Conclusion

To date, no other structure of transitional justice has examined economic crimes as purposefully, broadly, or extensively as Kenya's TJRC. Its experiences, limitations, and achievements demonstrate the myriad linkages often present among violations of political and socioeconomic rights in countries suffering under unaccountable government and systematic and/or periodic violence. Thousands of Kenyans testified to these economic violations and revealed their longing for justice, demonstrating that truth-seeking that is blind to abuses of socioeconomic human rights will fail to acknowledge the full nature

and scope of violations perpetrated, neglect the needs of many victims, and perhaps fall short of optimizing its ability to foster lasting peace. Kenya's case makes the argument for including economic violations in truth commissions' mandates.

Concomitantly, the TJRC's capacity shortcomings, particularly its inadequate operationalization of "truth" and limited ability to gather and evaluate evidence (both new and old), as well as the political subterfuge inspired by its investigations into land misappropriation, demonstrate the need for greater consideration of the heightened and perhaps unique burdens this expanded mandate brings. Do truth commissions need different operational skills if they are to effectively investigate wide-scale economic crimes and create a definitive assessment? If so, what are they? The Kenyan truth commission's chapter on land was so dependent on previous scholarship and commissions that it offers few insights here. Tension within the commission and between the commission and government highlights problems that murky assessments of the veracity of testimony can bring. Finally, the shroud of scandal that surrounded the final report's contentious release demonstrates that when truth commissions investigate economic crimes, they may challenge the economic advantages of individuals who remain in political power.

Notes

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