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KENYA NATIONAL COMMISSION ON HUMAN RIGHTS

**AUDITED FINANCIAL STATEMENTS
AND
THE AUDITORS REPORT**

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FOR

2003/2004 FINANCIAL YEAR

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KENYA NATIONAL AUDIT OFFICE

**CONTROLLER AND AUDITOR GENERAL'S REPORT ON THE FINANCIAL
STATEMENTS OF THE KENYA NATIONAL COMMISSION ON HUMAN
RIGHTS FOR THE PERIOD ENDED 30 JUNE 2004**



KENYA NATIONAL AUDIT OFFICE

CONTROLLER AND AUDITOR GENERAL'S REPORT ON THE FINANCIAL STATEMENTS OF THE KENYA NATIONAL COMMISSION ON HUMAN RIGHTS FOR THE PERIOD ENDED 30 JUNE 2004

I have audited the financial statements of the Kenya National Commission on Human Rights for the period ended 30 June 2004 pursuant to Section (20) of the Public Audit Act, 2003. I have obtained all the information and explanations which to the best of my knowledge and belief were necessary for the purpose of the audit. The financial statements are in agreement with the books of account.

Respective Responsibilities of the Commission and the Controller and Auditor General

The Commission is responsible for the preparation of financial statements which give a true and fair view of the commission's state of affairs and its operating results. My responsibility is to express an independent opinion on the financial statements based on my audit.

Basis of Opinion

The audit was conducted in accordance with the International Standards on Auditing. Those standards require that the audit be planned and performed with a view to obtaining reasonable assurance that the financial statements are free from material misstatement. An audit includes an examination, on a test basis, of evidence supporting the amounts and disclosures in the financial statements. It also includes an assessment of the accounting principles used and significant estimates made by the Commission as well as evaluation of the overall financial statements presentation. I believe my audit provides reasonable basis for my opinion.

(i) Irregular appointment of Auditors

Although Section 31(3) of the Kenya National Commission on Human Rights Act, 2002 provides for the audit of the accounts of the Commission by the Controller and Auditor General, the Commission acted in contravention of Section (20) and (39) of the Public Audit Act, 2003 and the Kenya National Commission on Human Rights Act, 2002 by appointing a private firm of Certified Public Accountants to audit its financial statements for the year ended 30 June 2004. The firm subsequently proceeded to audit the accounts of the Commission and to issue

an audit report dated 12 January, 2005. The firm was thereafter paid Kshs.314,500.00 for audit services leaving a balance of Kshs.50,900.00 still outstanding and payable.

(ii) **Annual Estimates**

Section (30) of the Kenya National Commission on Human Rights Act, 2002 requires the Commission to prepare, approve and submit to the Minister for final approval, its annual estimates of revenue and expenditure. However, the Commission's revenue and expenditure estimates for the year 2003/2004 totalling Kshs.53,919,596 and Kshs.54,249,644 respectively were not approved by the Minister. The Commission was, therefore, in breach of the law.

(iii) **Unvouched Expenditure**

Original payment vouchers and supporting documents in respect of expenditure totalling Kshs.2,995,737.75 incurred on motor vehicles maintenance, internet services, hire of minibus, allowances to commissioners, office expenses, annual subscriptions for publications, maintenance of PABX, advertisements and rent were not made available for audit review. The expenditure totalling Kshs.2,995,737.75 was not therefore, vouched and its propriety has, therefore, not been ascertained.

(iv) **Unsupported Expenditure**

Expenditure totalling Kshs.264,811.00 out of an amount of Kshs.356,561.00 incurred on Human Rights Day Celebrations was not adequately supported. Further, expenditure of Kshs.114,253.00 incurred on Expert and Stakeholders Review of Strategic Plan was not supported by original invoices and receipts. Consequently it was not possible to ascertain the propriety of the total expenditure of Kshs.379,064.00 incurred under the two activities.

Opinion

Except for the foregoing reservations, in my opinion, proper books of account have been kept and the financial statements, which are in agreement therewith, give a true and fair view of the financial state of affairs of the Commission as at 30 June 2004 and of its surplus and cash flows for the year then ended.


E.N. MWAI
CONTROLLER AND AUDITOR GENERAL

Nairobi

30 December 2005

diag ref: 00.00

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
ANNUAL REPORT
AND FINANCIAL STATEMENTS
FOR THE PERIOD ENDED 30TH JUNE 2004

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
FINANCIAL STATEMENTS
FOR THE PERIOD ENDED 30TH JUNE 2004

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KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
COMMISSION INFORMATION
FOR THE PERIOD ENDED 30TH JUNE 2004

PRINCIPAL PLACE OF BUSINESS

NSSF Building 9th Floor Block A
P.O. Box 74359-00200
NAIROBI

BANKERS

Kenya Commercial Bank
Milimani Branch
P O Box 69695
NAIROBI

AUDITORS

Controller and Auditor General,
P O Box 30084 - 00100
NAIROBI

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
REPORT OF THE COMMISSIONERS
FOR THE PERIOD ENDED 30TH JUNE 2004

The Commissioners submit their report and the financial statements for the period ended 30th June 2004 which show the state of the Commission's affairs.

1. PRINCIPAL ACTIVITY

The principal activity of the Commission is to further the protection and promotion of human rights in Kenya.

2. COMMISSION STRUCTURE AND NATURE OF ACTIVITIES

The Kenya National Commission on Human Rights (The Commission) is an independent national human rights institution established by the Kenyan Government through an Act of Parliament. The Commission succeeded the Standing Committee on Human Rights, which was established in 1996. The Commissioners were appointed on 29 July 2003, and took office from September 2003.

The mission of the Commission is to lead in enhancing the Government's role in protecting and promoting human rights in Kenya by initiating and advising on programmes and policies that transform Kenya into a society that respects human dignity, social justice and equality for all.

The Commission is constituted of the Commissioners and the Secretariat. The Commissioners (9) serve on a full time basis and enjoy security of tenure. The Secretariat is headed by the Secretary.

3. RESULTS

The results for the period are shown on page 5.

4. MANAGEMENT

The Commissioners who served during the year and to the date of this report were:-

Mr. Maina Kiai	-	Chairman
Ms Violet K. Mavisi	-	Vice-Chairperson
Mr. Tirop Kitur	-	Commissioner
Ms. Catherine Mumma	-	Commissioner
Mr. Godana Doyo	-	Commissioner
Mr. Lawrence Mute	-	Commissioner
Ms. Fatuma Ibrahim	-	Commissioner
Mr. Khelef Khalifa	-	Commissioner
Ms. Wambui Kimathi	-	Commissioner
Mr. Mburu Gitu	-	Secretary to the Commission

5. STATEMENT OF THE COMMISSIONERS' RESPONSIBILITIES ON THE FINANCIAL STATEMENTS FOR THE PERIOD ENDED 30TH JUNE 2004

The Kenya National Commission on Human Rights Act (No. 9 of 2002), which establishes the Commission, requires the management of the Commission to prepare financial statements for each financial year, which give a true and fair view of the state of affairs of the Commission as at the end of the financial year and of its operating results for that year. It also requires the management to ensure proper accounting records are maintained which disclose with reasonable accuracy at any time the financial position of the Commission. They are also responsible for safeguarding the assets of the Commission.


The management of the Commission accepts responsibility for the financial statements, which have been prepared using appropriate accounting policies supported by reasonable and prudent judgments and estimates, in conformity with the Commission's financial regulations and generally accepted accounting principles. The management of the Commission is of the opinion that the financial statements give a true and fair view of the state of the financial affairs of the Commission and of its operating results. The management of the Commission further accepts responsibility for the maintenance of accounting records, which may be relied upon in the preparation of the financial statements, as well as adequate systems of internal financial control.

Nothing has come to the attention of the management of the Commission to indicate that Commission will not remain a going concern for at least the next twelve months from the date of this statement.

6. AUDITORS

In pursuant to section 31 (3) of the Kenya National Commission on Human Rights Act No. 9 of 2002, the Commission's Auditors remains the Controller and Auditor General of the Government of Kenya.

By order of the Commission



.....

Date 29 Nov 2004

Mr. Mburu Gitu
SECRETARY TO THE COMMISSION

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
 BALANCE SHEET
 AS AT 30TH JUNE 2004

	Note	2004 KShs.
FIXED ASSETS		
Net Fixed Assets	2	<u>25,375,470</u>
CURRENT ASSETS		
Grant Receivable	5	420,997
Debtors	3	141,786
Cash and bank balances	11	<u>8,794,731</u>
		<u>9,357,514</u>
TOTAL ASSETS		<u>35,232,984</u>
FUND BALANCE AND LIABILITIES		
FUND BALANCE		
General reserve	4	25,938,157
Deferred income	5	8,025,772
Creditors	6	<u>1,269,055</u>
TOTAL FUND BALANCE AND LIABILITIES		<u>35,232,984</u>

The financial statements were approved by the Commissioners on
 29 Nov 2004 and signed on its behalf by: -



Secretary to the Commission

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
 INCOME AND EXPENDITURE STATEMENT
 FOR THE PERIOD ENDED 30TH JUNE 2004

	Note	2004 KShs
Grants Received		<u>51,319,208</u>
INCOME		
Grant income	7	25,238,604
Other income		<u>653,590</u>
		<u>25,892,194</u>
EXPENDITURE		
Staff costs	8	5,649,766
Programme Support costs	10	8,459,005
Programme costs	9	<u>11,720,736</u>
TOTAL		<u>25,829,507</u>
SURPLUS FOR THE YEAR		
Revenue Surplus	4	62,687
Capital Reserve	4	<u>25,875,470</u>
		<u>25,938,157</u>

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
STATEMENT OF CHANGES IN FUND BALANCES
FOR THE PERIOD ENDED 30TH JUNE 2004

	GENERAL RESERVE KShs.
At 1 July 2003	-
Surplus for the period	<u>25,938,157</u>
At 30 June 2004	<u>25,938,157</u>

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
 CASH FLOW STATEMENT
 FOR THE PERIOD ENDED 30TH JUNE 2004

	Note	2004 KShs.
Cash flows from operating activities	I&E	25,938,157
Investing Activities - Acquisition of Fixed Assets	2	<u>25,875,470</u>
Operating surplus before working capital changes	I&E	62,687
Debtors	3	(141,786)
Grants receivable	5	(420,997)
Creditors	6	1,269,055
Deferred income	5	<u>8,025,772</u>
Net cash flows generated by operating activities		<u>8,794,731</u>
Net increase in cash and cash equivalents	11	8,794,731
Cash and cash equivalents at beginning of year		—
Cash and cash equivalents at end of year	11	<u>8,794,731</u>

1. ACCOUNTING POLICIES

- a) Basis of accounting
The financial statements are prepared on the historical cost basis.
- b) Income
Income comprises grants from various donors and other income. Operating grants are recognized over the period necessary to match them with related expenses.
- c) Expenditure
Expenditure comprises expenses incurred directly for programme activities. These are recognized on accrual basis.
- d) Property and equipment
Property and equipment are stated at Net Book Value (cost less accumulated depreciation.).
- Depreciation is charged on the reducing balance method using the following annual rates:
- | | |
|----------------------|--------|
| Computers & Printers | 33.33% |
| Office Equipment | 12.5% |
| Furniture & Fitting | 12.5% |
| Motor Vehicles | 25% |
- Full depreciation is charged in the year of purchase / acquisition and none in the year of disposal.
- e) Foreign currency transactions
Foreign currency transactions during the year are converted into Kenya Shillings at rates ruling at the transactions dates.
- f) Retirement benefits costs
The Commission contributes to a statutory defined contribution pension scheme, the National Social Security Fund (NSSF). Contributions are determined by local statute and are currently limited to KShs 200 per employee per month.
- The Commission's contributions to the above schemes are charged in the income and expenditure account in the year to which they relate.
- g) Cash and cash equivalents
Cash and cash equivalents comprise balances held in current accounts with banks and cash on hand.
- h) Deferred income
Unexpended grant receipts are deferred and recognized as income when the related expenses are incurred.

2. PROPERTY AND EQUIPMENT

The Commission maintains a memorandum account showing details of the existing property and equipment at any one time. During the period ended 30 June 2004, the Commission had the following assets:

	Computers & printers KShs.	Office equipment KShs.	Furniture & fitting KShs.	Motor vehicles KShs.	Total KShs.
COST					
At 1 July 2003	716,500	351,668	956,960	6,273,948	8,299,076
Additions	194,354	-	-	25,886,250	26,080,604
Disposals	-	-	-	-	-
At 30 June 2004	910,854	351,668	956,960	32,160,198	34,379,680
DEPRECIATION					
At 1 July 2003	-	-	-	-	-
ADD: Charge for the Year	300,582	43,959	119,620	8,040,050	8,504,210
LESS: Dep. on Disposals	-	-	-	-	-
At 30 June 2004	300,582	43,959	119,620	8,040,050	8,504,210
NET BOOK VALUE					
At 30 June 2004	610,272	307,710	837,340	24,120,149	25,875,470
At 1 July 2003	716,500	351,668	956,960	6,273,948	8,299,076

The property and equipment balances as at 1 July 2003 relates to the assets inherited from the Standing Committee on Human Rights. The value of the property and equipment inherited from the Standing Committee on Human Rights is based on an assessment of the value of those items by the Commission. The Commission is seeking a professional valuation of all its property and equipment.

3.	DEBTORS	2004 KShs.
	Deposits	90,000
	Staff debtors	<u>51,786</u>
		<u>141,786</u>

The deposits comprises of a bank guarantee issued to Total Kenya Limited for fuel credit facilities. The staff debtors comprise imprests issued to staff and Commissioners that had not been fully surrendered by the end of the financial year.

4.	GENERAL RESERVE			
		Receipts	Expended During	30 June
		KShs	the Period	2004
			KShs	KShs
	Revenue reserve	653,590	590,904	62,687
	Capital reserve			<u>25,875,470</u>
	Total			<u>25,938,157</u>

Receipts of KShs.653,590 were from of sale of tender documents.

5. (GRANT RECEIVABLE) /DEFERRED INCOME

Movement in deferred grant income and grant receivable is analyzed as follows:

	Receipts	Expended	Deferred
		During the	income
	KShs	Period	2004
		KShs	KShs
GOK	<u>46,014,092</u>	<u>46,435,089</u>	<u>(420,997)</u>
CIDA	5,157,000	3,534,801	1,622,199
Aus AID	5,030,071	-	5,030,071
Action AID	<u>2,722,820</u>	<u>1,349,318</u>	<u>1,373,502</u>
Total	<u>12,909,891</u>	<u>4,884,119</u>	<u>8,025,772</u>

i) Action Aid Fund

These are funds received from Action Aid Kenya during the establishment of the Commission. The objectives were to facilitate in the dissemination of the strategic plan, to fund the Human Rights Day celebrations and towards the campaign on negative ethnicity. The grant amounting to KShs 2,722,820 was to run from December 2003 to June 2004.

5. (GRANT RECEIVABLE) /DEFERRED INCOME (Continued)

ii) Canadian International Development Agency (CIDA) Fund

The funding was towards the Commission's project for "Strengthening Human Rights in Kenya". A contribution of CDN\$ 95,510 was obtained. The objectives of the project are:

- to ensure the full participation of Kenya in the development and realization of the proposed UN Convention on The Rights of Persons with Disabilities.
- to enhance the efficiency and the transparency of the Commissions operations through development of a financial systems manual.

The project runs from March 2004 to September 2004.

iii) Australian High Commission Fund

The Australian High Commission through the Africa Governance Fund (AGF) provided funding of A\$ 92,000 in support of the project "Catalyzing Police Reform in Kenya". The project seeks to catalyze pro-human rights reform of the Kenya Police Service. It is intended to transform the police from an institution that has been traditionally viewed as an arm of oppression into a force that exists to serve the people by maintaining law and order.

6. CREDITORS 2004
KShs

Amounts falling due within one year:

Accruals 1,269,055

Creditors comprise commitments entered into by the end of the financial year that had not been paid. They include payments for rent, telephone, fuel, consultancy fees, etc.

7. GRANT INCOME

Grant income during the period are as follows: -

GOK	46,435,089
Action Aid	1,349,318
CIDA	<u>3,534,801</u>
	51,319,208
Less capital grants	<u>(25,080,604)</u>
	<u>25,238,604</u>

The Government made a provision of Kshs. 50 million as Grants to KNCHR in the

2003/04 budget, out of which Kshs. 3,985,908 had been spent by Standing Committee on Human Rights before KNCHR began operations.

8. STAFF COSTS

	Kshs
Salaries	5,226,266
Interns allowances	<u>423,500</u>
	<u>5,649,766</u>

Staff costs do not include the salary and allowances payable to the Commissioners (9) since these are met directly by the Treasury from the Consolidated Fund. The average number of employees during the period was 15.

9. PROGRAMME SUPPORT COSTS

	Kshs.
Office rent	2,668,260
Telephone & email	1,221,475
Commissioners telephone expenses	516,837
Printing & stationery	934,581
Postage & deliveries	57,283
Equipment repairs & maintenance	183,379
Newspaper subscription fees	100,206
Office utilities	608,918
Advertisement costs (tenders)	333,528
Relocation costs	1,334,783
Bank charges	49,355
Consultancy on financial systems	430,400
Auditor's remuneration	<u>20,000</u>
	<u>8,459,005</u>

10.	PROGRAMME COSTS	2004 KShs
	<u>Strategic Plan</u>	
	Development and dissemination of strategic plan	2,734,134
	<u>Human Rights Monitoring and Investigations</u>	
	Regional human rights monitoring	958,152
	Workshop to review/adopt rules on investigations	27,350
	<i>Nguzo za Haki</i> magazine	306,472
	Human rights investigations	166,607
	Prison Inspections	286,428
	Annual report to parliament on state of human rights	534,346
	Review of terrorism bill	57,157
	Public forum on policing	57,000
	International travel to conferences	348,596
	<u>International human rights obligations</u>	
	Preparatory work – UN Convention on Rights of Persons disabilities	3,338,398
	<u>Human Rights Advocacy</u>	
	Review of Prisons Act and Rules	211,000
	Truth, justice & reconciliation advocacy	264,133
	Human rights day/awards	356,561
	Rules & regulations on investigations	70,000
	<u>Field Programme Transport</u>	
	Vehicle running and maintenance	2,004,402
		<u>11,720,736</u>

11. CASH AND CASH EQUIVALENTS

For the purpose of the cash flow, cash and cash equivalents comprise of: -

Bank and cash balances ..	8,794,731
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12. TAXATION

The Commission has applied for exemption from Income Tax. No provision has been made in these financial statements as the Commissioners are of the opinion that tax exemption will be granted by the Kenya Revenue Authority.

13. MANDATE

The Commission is established under the Kenya National Commission on Human Rights Act (No. 9 of 2002)

14. CURRENCY

The Financial statements are presented in Kenya Shillings (KShs.).

PERIOD TRIAL BALANCE

N/C	DEBIT KSHS.	CREDIT KSHS.
1 Motor Vehicles	32,160,197.95	
2 Computers	805,765.00	
5 Computer Software	105,089.25	
Office Equipment	351,668.00	
Furniture & Fittings	956,960.00	
Accumulated Depreciation		8,504,209.90
51 Action Aid Grant		2,722,820.00
52 MOJCA Grant		46,435,089.00
53 CIDA Grant		5,157,000.00
54 Other Incomes - NET		62,687.55
55 Grants received - Australian H.		5,030,071.10
103 Catherine Mumma	1,030.00	2.40
105 Tirop Kitur	3,970.00	
106 Godana Doyo	3,625.80	
107 Lawrence Mute		1,490.00
108 Khelef Khalifa	530	
110 Fatuma Ali	8,534.00	
111, Mburu Gitu	0.30	
112 Musa Cherogony	600.00	
113 Alice Wairimu Nderitu	962.60	
115 Ezekiel Obanda	18,955.00	
117 Waruguru Kaguongo		1,500.00
120 Anastacia James		80
124 Diana Imali	16,651.00	
126 Maina Kiai		
150 Creditors and Accruals		1,269,055.35
201 KCB Milimani Account - MOJCA	361,562.40	
202 KCB Milimani - Other Grants	8,366,679.25	
228 Debtors and Deposits	90,000.00	
229 Petty Cash Control	66,489.71	
Grants receivable	420,997.00	
Suspense A/C		385,770.05
251 Salaries	5,110,950.00	
252 Wages	99,316.00	
254 Interns Allowances	423,500.00	
255 Staff Training	16,000.00	
301 Office Rent	2,668,260.00	
302 Telephone and Email	1,221,475.40	
303 Commissioners Telephone expenses	516,836.80	
304 Printing and Stationery	934,584.05	
305 Postage and Deliveries	57,283.40	
306 Equipment repairs and maintenance	183,379.05	
307 Subscription fees	100,206.00	
308 Office Utilities	608,917.50	
309 Vehicle running and maintenance	2,004,401.39	
311 Advertisement Costs	333,528.10	
313 Re-location cost	1,334,783.25	
314 Bank Charges	49,355.00	
315 Consultancy - Financial Systems	430,400.00	
Audit Fees	20,000.00	
651 Expert and Stakeholders SP	114,250.00	

N/C	DEBIT KSHS.	CREDIT KSHS.
652 Newspapers supplements SP	878,504.00	
655 Media Adverts - SP	366,430.05	
656 Provincial/Regional HR Visits	958,152.00	
657 Human Rights Day - Dinner/Awards	356,561.00	
658 Meals and Accommodation	973,147.00	
659 Transport and Fuel	63,500.00	
660 Workshop materials and Other cost	3,300.00	
662 Per Diems	335,000.00	
663 Consultancy to draft rules & regulations	70,000.00	
664 Workshop to review/adopt rule	27,350.50	
701 Haki Zetu Magazine	306,472.00	
702 Human Rights investigation	166,607.00	
703 Visits to prisons/detention pl	286,428.00	
704 Annual Report to Parliament	534,346.00	
705 Workshop on Terrorism	57,157.00	
707 National workshop	57,000.00	
711 International Travel	348,596.15	
712 Workshop Intern Conven disabilities	32,914.00	
713 Draft Outline of issues - Kenya	388,272.30	
714 National F Kenya position	533,520.00	
715 Regional Workshops	1,265,209.15	
716 Participation in Ad Hoc Commit	1,118,482.75	
718 Prisons workshop	211,000.00	
719 Truth, Justice and Reconciliation	264,133.25	
Totals	69,569,775.35	69,569,775.35

NATIONAL COMMISSION ON HUMAN RIGHTS
 BUDGET COMPARISON
 THE PERIOD ENDED 30TH JUNE 2004

APPENDIX I

	BUDGET KSHS	ACTUAL KSHS	VARIANCE KSHS
INCOME			
Grant income	46,014,092	46,435,089	(420,997)
	46,014,092	46,435,089	(420,997)
STAFF COSTS			
Salaries and wages	5,087,000	5,226,266	(139,266)
Interns allowances	225,000	423,500	(198,500)
Subtotal	5,312,000	5,649,766	(337,766)
PROGRAMME SUPPORT COSTS			
Office rent	2,972,000	2,668,260	303,740
Telephone & email	630,000	1,284,434	(654,434)
Commissioners telephone expenses	400,000	453,878	(53,878)
Printing & stationery	360,000	969,102	(609,102)
Postage & deliveries	90,000	57,283	32,717
Equipment repairs & maintenance	180,000	148,861	31,139
Subscription costs	162,000	100,206	61,794
Office utilities	180,000	608,917	(428,917)
Mail set up and maintenance	225,000	-	225,000
Advertisement costs - tenders	-	200,104	(200,104)
Relocation costs	700,000	1,334,784	(634,784)
Bank charges	-	48,655	(48,655)
Consultancy on financial systems	240,000	430,400	(190,400)
Auditors remuneration	-	20,000	(20,000)
Subtotal	6,139,000	8,324,884	(2,185,884)
PROGRAMME COSTS			
Development of Strategic Plan			-
Expert & stakeholders review of strategic plan			-
Newspapers supplement on strategic plan			-
Media adverts: strategic plan	387,000	366,430	20,570
Meals & accommodation - strat plan wshop	602,912	623,212	(20,300)
Transport & fuel - strategic plan workshop	52,895	63,500	(10,605)
Workshop materials & other costs - strat plan wshop	34,593	3,300	31,293
Per diems- workshop on strategic plan	239,000	335,000	(96,000)
Facilitation expenses - strat plan workshop	786,240		786,240
Subtotal	2,102,640	1,391,442	711,198

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
GOK BUDGET COMPARISON
FOR THE PERIOD ENDED 30TH JUNE 2004

APPENDIX

	BUDGET KSHS	ACTUAL KSHS	VARIANCE KSHS
<i>Human Rights investigations/monitoring</i>			
Regional human rights monitoring visits	600,000	958,152	(358,152)
Workshop to review/adopt rule on investigations	20,000	27,350	(7,350)
<i>Nguzo za Haki</i> magazine	300,000	306,472	(6,472)
Publication & gazettelement of rules	100,000	100,000	0
Subtotal	1,020,000	1,291,974	(271,974)
<i>Human rights investigations</i>			
Human rights investigations	200,000	166,607	33,393
Prison inspections	220,000	286,428	(66,428)
Annual report to parliament	2,000,000	534,346	1,465,654
Workshop on terrorism bill	200,000	57,157	142,843
Public forum on policing	-	57,000	(57,000)
International travel to conferences	-	157,977	(157,977)
Review of Prisons Act and Rules	-	211,000	(211,000)
Truth, justice & reconciliation advocacy	-	264,133	(264,133)
Regional workshop on disability convention	-	5,720	(5,720)
Consultancy to draft rules & regulations	50,000	70,000	(20,000)
Programme transport			
Vehicle running & maintenance	1,000,000	2,004,402	(1,004,402)
Subtotal	3,670,000	3,814,770	(144,770)
CAPITAL EXPENDITURE			
Motor vehicle	28,000,000	25,886,250	2,113,750
Networking computers	100,000	100,000	0
Subtotal	28,100,000	25,886,250	2,213,750
TOTAL EXPENDITURE	46,343,640	46,359,086	(15,446)
Surplus/(deficit)		76,003	

Note:

The significant budget versus actual variances are caused by the fact that this being the first year of operation the Commission did not have full previous cost experience. In addition, priorities were refocussed after completion of the strategic plan and resources shifted accordingly.

**KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
ACTIONAID BUDGET COMPARISON
FOR THE PERIOD ENDED 30TH JUNE 2004**

APPENDIX II

	BUDGET	ACTUAL	VARIANCE
INCOME	KSHS	KSHS	KSHS
Grant income	2,748,504	2,722,820	25,684
EXPENDITURES			
SET UP LAUNCHING & PUBLICITY OF COMMISSION			
Expert & stakeholders review of strategic plan	225,000	114,253	110,747
Newspapers supplement on strategic plan	878,504	878,504	-
Publication of strategic plan	100,000		100,000
Human rights day/awards	225,000	356,561	(131,561)
sub-total	1,428,504	1,349,318	79,186
CAMPAIGN ON NEGATIVE ETHNICITY			
Workshop provincial training	870,000		870,000
Developing negative ethnicity scorecard	100,000		100,000
Perception survey	100,000		100,000
Publication/posters/booklets	250,000		250,000
sub-total	1,320,000	-	1,320,000
TOTAL EXPNEDITURE	2,748,504	1,349,318	1,399,186
Surplus/(deficit)		1,373,502	

**KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
CIDA BUDGET COMPARISON
FOR THE PERIOD ENDED 30TH JUNE 2004**

APPENDIX III

	BUDGET	ACTUAL	VARIANCE
	KSHS	KSHS	KSHS
INCOME			
Grant income	5,157,000	5,157,000	-
	5,157,000	5,157,000	-
EXPENDITURES			
Stakeholders w/shop - UN Convention, Persons with Disabilities	62,500	32,914	29,586
Consultancy to draft outline of issues on disability convention	390,000	388,272	1,728
National forum: Kenya position on disability convention	1,475,000	533,520	941,480
Participation in adhoc committee on convention-New York	1,110,000	1,118,482	(8,482)
De-briefing workshop on UN meeting	187,500	-	187,500
Regional workshop on disability convention	1,402,500	1,265,209	137,291
	4,627,500	3,338,397	1,289,103
PROGRAMME SUPPORT COSTS			
Administrative costs			
Consultancy on financial systems	390,000		390,000
Bank charges		2,050	(2,050)
Computers	140,000	194,354	(54,354)
Sub-total	530,000	196,404	333,596
TOTAL EXPENDITURE	5,157,500	3,534,801	1,622,699
Surplus/(deficit)		1,622,199	

RESPONSES TO ISSUES RAISED IN THE AUDIT REPORT ON THE KENYA NATIONAL COMMISSION ON HUMAN RIGHTS ACCOUNTS FOR THE YEAR ENDED 30 JUNE 2004

I wish to provide additional information and explanations to the issues raised in Controller and Auditor General's report on the Kenya National Commission on Human Rights' Accounts for the year ended 30th June 2004 as follows:-

1. Unvouched Expenditure

Expenditure on various items totalling Kshs 2,995,737.75 was incurred by the Commission before the Secretary to the Kenya National Commission on Human Rights came on board.

During this period, the Commission had not assumed its status as a self-accounting unit. All expenses of the Commission were therefore being initiated by the Commission then forwarded for processing through the financial management system of the Ministry of Justice and Constitutional Affairs. The vouchers and supporting documents used in processing the Commission's expenses were then held/retained by the Ministry for purposes of expenditure capturing in their books of accounts and for audit.

It was a requirement from the Ministry of Justice and Constitutional Affairs that after the A.I.E holder from the Commission had signed the A.I.E certificate, the vouchers were submitted to MOJCA for signature of the Accountant, the endorsement of the finance officer and examination by the internal auditor and then consolidated with the mother Ministry's accounts for onward transmission to the Treasury. The Ministry also required the Commission to submit the vouchers that they had already authorized, quarterly for their custody.

The vouchers and other documents supporting the expenditure under reference above are being held by the Permanent Secretary in the Ministry of Justice and Constitutional Affairs. The Commission has requested her to avail the documents to the Controller and Auditor General for audit review (see copy of the letter attached as Appendix 1).

2. Irregular appointment of Auditors

It is true that although Section 31(3) of the KNCHR Act, 2002 provides for audit of the accounts of the Commission by the Controller and Auditor General, the Commission appointed a private audit firm (Ernst & Young Certified Public Accountants) to audit its financial statements for the year ended 30th June 2004.

In addition to Government of Kenya funding, the Commission obtained a number of direct donor funds towards specific Human Rights programmes and activities during the year under focus. The Commission reached an understanding with the Donors, including the Australian International Development Agency, Canadian International Development Agency, and Action Aid, that private audits on the donor funds would be required at the end of the projects being funded and/or at the Commission's financial year end.

In view of the above, the Commission vide its letter Ref. No. KNCHR/43/AUD dated the 8th September 2004 (copy attached as Appendix 2) requested for the authority of the Controller and Auditor General to appoint Ernst & Young Certified Public Accountants to carry out the audit in order to comply with the provisions of Section 31(3) of the KNCHR Act, 2002 as well as to satisfy the donors' interests. On receiving the Controller and Auditor General's response under Ref. No. DA/AUD/61/VOL.II/11 dated the 21st October 2004 (Copy attached as Appendix 3), the Commission decided to contract Ernst & Young Certified Public Accountants to carry out the exercise as a management audit in addition to the statutory audit to be conducted by Controller and Auditor General.

The audit conducted by Ernst & Young Certified Public Accountants was therefore treated as a special/management audit while that conducted by the Controller and Auditor General was the one officially recognised as the statutory audit.

The objective of the Commission in commissioning the audit by Ernst & Young was motivated also by the desire to achieve high levels of accountability and transparency.

3. Annual Estimates

It is true that the KNCHR Act, 2002 section 30 requires the Commission to prepare, approve and submit its budget to the Minister (Minister for Justice and Constitutional Affairs) for approval before the commencement of the financial year to which they relate.

Since the Commission was set-up and became operational after the commencement of the 2003/2004 financial year, the Commission found it necessary to continue implementing the itemised budget it inherited from the Standing Committee on Human Rights.

During its meeting of the 14th August 2003, the Commission appointed a planning sub-committee to review the budgetary estimates prepared by the

Standing Committee on Human Rights so as to align it with the vision, mission and objectives of the Commission. The itemised budget prepared by the subcommittee was then forwarded to the Ministries of Finance and Justice and Constitutional Affairs for approval vide our letter Ref. No. SCHR/8/CLA/99/II Vol.II dated the 24th September 2003 (see Appendix 4 attached). The Ministry of Finance in consultation with the Ministry of Justice and Constitutional Affairs then approved the budget vide their letter Ref. No ES 38/03/01 dated the 23rd October 2003 (copy attached as Appendix 5).

The Commission has thereafter ensured that its estimates for the ensuing financial years are prepared, approved and submitted to the Minister (Minister for Justice and Constitutional Affairs) for approval before commencement of the financial years to which they relate.

The Minister has to-date not approved the Commission's financial estimates for the 2004/5 and 2005/6 financial years.

4. Unsupported Expenditure

It is true that the Commission incurred expenditure amounting to Kshs. 264,811.00 during its inaugural human rights day celebrations. The said amount comprises the under-listed cheques: -

Payee	Chq. No.	Amount (Kshs.)
Nairobi Serena hotel	000089	107,250.00
Erick Wainaina - Rainmaker	000162	45,000.00
Nairobi Serena Hotel	000182	112,561.00
Total		264,811.00

Payments to M/S Nairobi Serena Hotel were made on faxed copies of proforma invoices while payment to Erick Wainaina (Rainmaker) was made against a computer printed invoice. This is attributed to the fact that the services were to be urgently procured and that the providers required payment upfront since the Commission had no credit facility with them.

It is true that the Commission incurred expenditure amounting to Kshs. 225,000.00 on review of its strategic plan, out of which Kshs. 114,253.00 was not adequately supported. This amount comprises the following: -

Payee	Chq. No.	Amount (Kshs.)
Holiday Inn	000238	30,937.50
Holiday Inn	000252	10,312.50
Panafric Hotel	000277	19,000.00
Norfolk Hotel	000288	54,000.00
Total		114,250.00

The above payments were made on faxed copies of pro-forma invoices. This is because the services were to be urgently procured and the hotels required payments upfront since the Commission had no credit facilities with them.

On the Commission's request, the service providers have provided original invoices for the above expenses. The same have been availed to the Controller and Auditor General for review, vide our letter Ref. No. KNCHR/43/AUD/1/VOL1 dated the 15th March 2006 (copy attached as Appendix 6).

The need for separate vote for the National Commission

One way in which the effectiveness and independence of the Commission can be strengthened is by establishing a separate vote for the Commission. We have attached a series of letters (Appendix 7) in which we have argued for a vote over a period of time. The Ministry of Justice and Constitutional Affairs successfully supported the creation of a vote for the Kenya Anti-Corruption Commission, whose legal framework and assertion of independence mirrors that of the KNCHR. We see no reason why KNCHR should not similarly be granted a vote, and at the same time get an increased budgetary allocation by the Government.

We request the National Assembly to recommend to the Minister for Finance establishment of a separate vote for and increased budgetary allocation to KNCHR.



MBURU GITU
SECRETARY TO THE COMMISSION

DATE: 16/3/2006

Kenya National Commission on Human Rights

Extract from the Kenya National Commission on Human Rights Act, 2002

31(2) Within a period of four months from the end of each financial year, the Commission shall submit to the Controller and Auditor General, the accounts of the Commission together with –

- (a) a statement of the income and expenditure of the Commission during that year; and
 - (b) a statement of the assets and liabilities of the Commission on the last day of that year.
- (3) Notwithstanding the provisions of any other written law for the time being in force, the accounts of the Commission shall be audited by the Controller and Auditor General.

Extracts from the Public Audit Act, 2003

15 (1) The Controller and Auditor General shall prepare a report on the examination and audit and submit the report to the Minister responsible for finance.

16(1) The Minister responsible for finance shall lay the report under section 15 before the National Assembly not later than seven days after the National Assembly first meets after the Minister has received the report.

(2) If the Minister fails to lay a report before the National Assembly as required under this section, the Controller and Auditor General shall forthwith submit a copy of the report to the Speaker of the National Assembly to be presented by him to the National Assembly.

18. When the Controller and Auditor General submits a report under Section 15 or 17 to the Minister responsible for finance, the Controller and Auditor General shall also submit a copy of the report to the state corporation and the Minister responsible for the state corporation.



Appendix 1


Kenya National Commission on Human Rights

NSSF Building 9th Floor Block A, P.O. Box 74359-00200 Nairobi - Kenya.

Tel: 254-2717928, Fax: 254-20-2716160

Email: haki@knchr.org

Appendix 1
Noted.

 fm. 29/11/05

KNCHR/43/AUD/1 VOL 1

28 November 2005

Dorothy Angote, Ms.
The Permanent Secretary,
Ministry of Justice and Constitutional Affairs,
Co-operative House,
Nairobi

Dear Ms. Angote,

**RE: AUDIT OF ANNUAL ACCOUNTS FOR KENYA NATIONAL COMMISSION
ON HUMAN RIGHTS FOR THE PERIOD ENDED 30 JUNE 2004**

The Kenya National Commission on Human Rights requests the Ministry of Justice and Constitutional Affairs to avail to the Kenya National Audit Office payment vouchers for payments made by the Commission in the period August – October 2004.

These payments were made at a time when the Commission was not fully established. At the time, the Commission originated payments and the supporting documents were sent to the Ministry for approval. The documents were retained at the Ministry.

The Kenya National Audit Office is in the process of completing its audit of the Commission for the financial year ended 30 June 2004.

The Commission's Finance Manager will liaise with your officers to identify the payment vouchers which need to be availed.

Regards,



**MBURU GITU
COMMISSION SECRETARY**

Cc Kenya National Audit Office (Ref AUD/S/KNCHR/18).



Kenya National Commission on Human Rights

NSSF Building, Block A, Eastern Wing, 9th Floor, P.O. Box 74359-00200, Nairobi - Kenya

Tel: 254-20-2717908/2717928/2717256/2712664, Fax: 254-20-2716160

Email: haki@skyweb.co.ke

Appendix 2

Appendix 2

OUR REF: KNCHR/43/AUD

September 8, 2004

The Controller and Auditor General,
Kenya National Audit Commission,
Nairobi,

Dear Sir,

RE: FINANCIAL AUDIT FOR THE YEAR ENDED 30 JUNE 2004

The Kenya National Commission on Human Rights, which is established by the Kenya National Commission on Human Rights Act (Act No. 9 of 2002) proposes to contract Ernst & Young, Certified Public Accountants, to conduct an audit of the Commission for the year ended 30 June 2004. Under Section 31 of the Kenya National Commission on Human Rights Act, the accounts of the Commission are subject to audit by the Controller and Auditor General.

The Commission requests the Controller and Auditor General, under Section 39 of the Public Audit Act, 2003, to approve the firm of Ernst and Young to carry out the audit. A copy of the firm's proposal to carry out the audit is enclosed.

Regards,

MBURU GITU
SECRETARY TO THE COMMISSION

Ernst & Young,
Certified Public Accountants,
Kenya-Re Towers,
Off Ragati Road,
Nairobi
Attention: M M Kimoni

hce
Muriithi and others
from Card A-6
reviewed documents
- Kevitta on 22-9
following earlier
discussion with
Ms. Joyce Nduku
of the Card
Card A-6-2
Report available
M M Kimoni
22-9-04



Telephone: Nairobi +254-20-335777

Fax: +254-20-330829

E-Mail: cag@kenyaweb.com

P.O. Box 30084-00100
NAIROBI



KENYA NATIONAL AUDIT OFFICE

DA/AUD/61/VOL.II/11

21 October, 2004

Appendix 3

Mr. Mburu Gitu
Secretary to the Commission
Kenya National Commission on
Human Rights,
N.S.S.F. Building,
P.O Box 74359 - 00200,
NAIROBI

Dear *Mr. Gitu*

FINANCIAL AUDIT FOR THE YEAR ENDED 30 JUNE 2004

I refer to your letter Ref. No.KNCHR/43/AUD dated 08 September, 2004 in which you have proposed to contract a private accounting firm to provide audit services for the Commission.

However, I wish to confirm that the Office of the Controller and Auditor General will carry out the Commission's audit in accordance with Section 31 (2) and (3) of the Kenya National Commission on Human Rights Act, 2002 and Part III of the Public Audit Act 2003. Under the circumstances the financial statements for 2003/2004 should be submitted to my Office for audit in accordance with the law.

Yours

Sincerely,

E.N. Mwangi
CONTROLLER AND AUDITOR GENERAL

med.

hm lib

25.10.04

Appendix 4



Appendix 4

Kenya National Commission on Human Rights

P.O. Box 74359 00100-Nairobi, Tel: 2717900/2717906/2717928/2717256/2712664
Fax: 2716160 e-mail: hak@skyweb.co.ke Social Security House, Eastern Wing, 9th Floor

OUR REF: SCHR/8/CLA/99/II VOL.II

24th September 2003

Mr. Joseph M. Magari,
Permanent Secretary,
Ministry of Finance,
Treasury Building,
NAIROBI

Thro'

Mr. Jeremiah Matigaro, MBS,
Permanent Secretary,
Ministry of Justice and Constitutional Affairs,
Sheria House,
NAIROBI.

Dear Mr. Magari:

RE: PROPOSAL FOR PERSONAL EMOLUMENTS FOR COMMISSIONERS AND PROPOSED OPERATIONAL BUDGET AND WORKPLAN FOR KNCHR

I am pleased to enclose two proposals from the KNCHR regarding Personal Emoluments for the Commissioners, and an Operational Budget and Workplan from October 2003 to June 2004.

As provided by law, the Personal Emoluments are to be drawn as a charge from the Consolidated Fund and are to be approved by the Parliamentary Committee on Judicial and Legal Affairs in consultation with the Treasury.

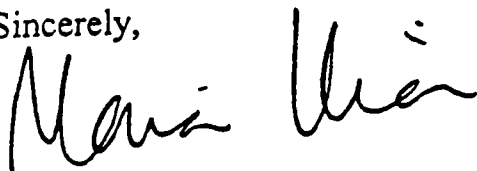
You will note from the Operational Plan and Budget that the allocated amount of Kshs. 50 million is not sufficient for sustaining the initial operations of the KNCHR, and we are consequently requesting an additional Supplementary Estimate of about Kshs. 23 million for the rest of the year.

CONFIDENTIAL

I would be grateful if you could expedite the process of approval and determination of these matters so that the KNCHR can be enabled to work effectively and efficiently in this critical first year of its operations.

I look forward to hearing from you soon.

Sincerely,



Maina Kiai
CHAIRMAN

Cc

Hon. Kiraitu Murungi, M.P.,
Minister for Justice and Constitutional Affairs
Box 56057,
NAIROBI.

Hon. Paul Muite, M. P.,
Chairman,
Parliamentary Committee on Judicial and Legal Affairs,
NAIROBI.

CONFIDENTIAL

Appendix 5

Appendix 5

16

REPUBLIC OF KENYA
MINISTRY OF FINANCE

Telegraphic Address: 22921
FINANCE-NAIROBI
FAX NO. 330426
Telephone: 338111
When replying please quote



THE TREASURY
P.O. Box 30007
NAIROBI

Ref: ES 38/03/01

Date: 23rd October, 2003

Mr. Jeremiah M.K. Matagaro, MBS,
Permanent Secretary,
Ministry of Justice & Constitutional Affairs,
P.O. Box 56057 – 00100,
NAIROBI

Dear Jeremiah,

RE: PROPOSAL FOR PERSONAL EMOLUMENTS AND OPERATIONAL BUDGET
AND WORKPLAN FOR KENYA NATIONAL COMMISSION ON HUMAN
RIGHTS (K.N.C.H.R)


Please refer to your letter Ref. MJ/002/15(18) dated 30th September, 2003.

We have analysed the proposed operational budget for the Kenya National Commission on Human Rights and found it to be acceptable. Our Comments on the same are as detailed herebelow:-

- 1) The Commission's proposed budget of Kshs.46 million is within its allocation of Kshs.50 million in this Financial Year's budget.
- 2) Out of the Kshs.50 million allocated to the Commission Kshs.10 million is for operations, maintenance and salaries and allowances for the support staff. The balance of Kshs.40 million is meant for once off installation expenses e.g acquisition of plant and equipment and promotional activities.
- 3) Most of the staff currently working for the Commission is seconded from the Ministry of Justice and Constitutional Affairs as well as A.G Chambers. Their salaries and allowances are charged from the parent Ministries and have therefore not been provided for under the Commission's budget.
- 4) The Commission's Chairman, Vice Chair person and the Commissioners will be drawing their emoluments from the Consolidated Fund Services. The applicable remuneration rates and entry points should be advised on by the Office of the President.

You may therefore go ahead and implement proposed programmes of the Commission. I wish however to advise that the implementation of the proposed remuneration of the Chairman, Vice Chairman, Commissioners, Secretary and other staff of the Commission be subject to prior approval by the Office of the President.

Yours *sincerely,*


JOSEPH M. MAGARI
PERMANENT SECRETARY

C.C. Ambassador Francis K. Muthaura, M.B.S.
Permanent Secretary,
Secretary to the Cabinet and Head of the Public Service,
P.O. Box 30510,
NAIROBI.

Hon. P.K. Muite,
Chairman,
Parliamentary Committee on Administration of
Justice and Legal Affairs.
NAIROBI.



Appendix 6

Appendix 6

Kenya National Commission on Human Rights

1st Floor, CVS Plaza, Lenana Rd., P. O. Box 74359 - 00200, Nairobi - Kenya.

Tel: 254-20-2717908/2717928/2717256/2712664, Fax: 254-20-2716160

Email: haki@knchr.org

REF: KNCHR/43/AUD/1/VOL1

15th March 2006

The Controller and Auditor General,
Kenya National Audit Office,
P.O. Box 30084 – 00100
NAIROBI.

Attn. Ms. Florence Valla

AUDIT REPORT ON ANNUAL ACCOUNTS OF THE KENYA NATIONAL COMMISSION ON HUMAN RIGHTS FOR THE PERIOD ENDED 30 JUNE 2004

Reference is made to your letter Ref. No. AUD/S/KNCHR/53 dated the 3rd January 2006 vide which you forwarded to us the above report. We hereby provide additional information/explanations on the issues raised in paragraph iv of the report under reference above as follows:-

⋮

Paragraph iv: Unsupported Expenditure

It is true that the Commission incurred expenditure amounting to Kshs. 264,811.00 during its inaugural human rights day celebrations. The said amount comprises the under-listed cheques: -

Payee	Chq. No.	Amount (Kshs.)
Nairobi Serena hotel	000089	107,250.00
Erick Wainaina - Rainmaker	000162	45,000.00
Nairobi Serena Hotel	000182	112,561.00
Total		264,811.00

Payments to M/S Nairobi Serena Hotel were made on faxed copies of proforma invoices while payment to Erick Wainaina (Rainmaker) was made against a computer

1

printed invoice. This is attributed to the fact that the services were to be urgently procured and that the providers required payment upfront since the Commission had no credit facility with them.

It is also true that the Commission incurred expenditure amounting to Kshs. 225,000.00 on review of its strategic plan, out of which Kshs. 114,253.00 was not adequately supported. This amount comprises the following: -

Payee	Chq. No.	Amount (Kshs.)
Holiday Inn	000238	30,937.50
Holiday Inn	000252	10,312.50
Panafric Hotel	000277	19,000.00
Norfolk Hotel	000288	54,000.00
Total		114,250.00

The above payments were made on faxed copies of pro-forma invoices. This is because the services were to be urgently procured and the hotels required payments upfront since the Commission had no credit facilities with them.

The Commission has since obtained original invoices for the above expenses from the service providers, copies of which are hereby enclosed for your review.

Yours truly,



MBURU GITU
SECRETARY TO THE COMMISSION

•



Kenya National Commission on Human Rights

NSSF Building, Block A, Eastern Wing, 9th Floor, P.O. Box 74359-00200, Nairobi - Kenya.

Tel: 254-20-2717908/2717928/2717256/2712664, Fax: 254-20-2716160

Email: haki@knchr.org

OUR REF:KNCHR/FIN/40

2nd September 2005

**The Managing Director,
Panafric Hotel,
P.O.Box 30486,
NAIROBI.**

Dear Sir/Madam,

REF:REQUEST FOR ORIGINAL INVOICES

The Kenya National Commission on Human rights, used your venue for the hosting of the validation workshop, on the 25th February 2004.

When settling our bill, we paid on the basis of a Facsimile Transmission Proforma Invoice as follows;

CHEQUE NO.	AMOUNT(KSHS)
(i)000277	19,000.00

Kindly avail for us the original invoices , for our records.

Your co-operation in the above matter shall be highly appreciated.

Yours faithfully,

Mburu Gitu
MBURU GITU
SECRETARY TO THE COMMISSION

c.b.g.
If Mark from the provided part documents, and follow up the missing.
Am. C/1/06

Aloys: See attached from Panafric Hotel
T.A.G.
4-01-06

GUEST FOLIO



THE PANAFRIC
HOTEL

K.N.C.H.R.

Kenyatta Avenue, P.O. Box 30486 Nairobi
Tel: 720822, 714444, Fax: 726356, 721878
WEBSITE: <http://www.sarovahotels.com>

VAT No. 0015942K PIN No. P000593546X

PAGE : **421182**

SERIAL NO.

Guest Folio No. 22055

Room No	Type	Account No.
2103	XX	

Name and Address
 KENYA NATIONAL COMM HUMAN RIGHTS
 KENYAN

Arrival	Departure
25/02/04	1/03/04 18:30

Voucher / Order No.

Time	Date	Description	Reference	Amount
	25/02/04	FUNCTION FOOD	17190	12000.00
	25/02/04	MISCELLANEOUS	17190	10000.00
	25/02/04	MISCELLANEOUS	17190	6500.00
		TOTAL		28500.00

THE PANAFRIC
 CERTIFIED TRUE COPY
 [Signature] MANAGER

PRICES ARE INCLUSIVE OF ALL TAXES AT THE PREVAILING RATE
 Regardless of change of instructions the above signed guest undertakes personal liability for all debts incurred by him or her

Please deposit your key with the cashier

Balance Due
 28500.00
 Signature!

Account payable on presentation

V.A.T. REG. No.: 15942
PIN No.: P000593546X



2103 No.: 1719

THE PANAFRIC
NAIROBI

FUNCTION CASH SALE / INVOICE

DATE	No. of Pax	FUNCTION NAME
25/2/04	40	KENYA NATIONAL COMMISSION
ITEMS		AMOUNT
		KSHS. CTS.
40 x Tea, Cookies & Sandwiches		
@ 300 p.p		12,000.00
Room Hire		10,000.00
P. A System		6,500.00
THE PANAFRIC CERTIFIED TRUE COPY		
M. M. M. MANAGER		
TOTAL KSHS.		28,500.00
ABOVE CHARGES ARE INCLUSIVE OF ALL TAXES		
ORGANIZERS NAME:	<u>KNCTH</u>	SIGNATURE:
		A/C No.: _____
Cashier/Supervisor: _____		

**KENYA NATION COMMISSION ON HUMAN RIGHTS
SOCIAL SECURITY HOUSE,
BLOCK A, EASTERN WING,
9TH FLOOR
NAIROBI**

PAYMENT VOUCHER

NO.....

DATE: 15TH FEBRUARY 2004

PAYEE: PANAFRIC HOTEL

PURPOSE OF PAYMENT:

Being payment in respect of validation workshop to be held at the Panafri Hotel by the KNCHR

DEPT.	A/CODES	DETAILS OF PAYMENT	AMOUNT KSH	CENTS
052	0654	Guaranteed attendance (30x 300/=)	9,000	00
			10,000	00
		<i>Total</i>	19,000	00

KENYA NATIONAL COMMISSION
ON HUMAN RIGHTS
PAID
19 FEB 2004
P. O. Box 74359 - 00100,
NAIROBI
FAX: 2716160

CHEQUE NO: 00027 **DATE DRAWN:** 19TH FEBRUARY 2004

PREPARED BY: E. Obando **APPROVED BY SECRETARY:** [Signature]

CHEQUE SIGNED BY:

- 1) [Signature]
- 2) [Signature]
- 3)



Kenya National Commission on Human Rights

NSSF Building, Block A, Eastern Wing, 9th Floor, P.O. Box 74359-00200, Nairobi - Kenya.

Tel: 254-20-2717908/2717928/2717256/2712664, Fax: 254-20-2716160

Email: haki@knchr.org

OUR REF:KNCHR/FIN/40

2nd September 2005

**The Managing Director,
Nairobi Serena Hotel,
P.O.Box 46302-00100,
NAIROBI.**

Dear Sir/Madam,

REF:REQUEST FOR ORIGINAL INVOICES

The Kenya National Commission on Human rights, used your venue for the hosting of the Annual Human Rights awards on the evening of 13th December 2003.

When settling our bill, we paid on the basis of a Facsimile Transmission Proforma Invoice as follows;

CHEQUE NO.	AMOUNT(KSHS)
(i)000089	107,250.00
(ii)000182	112,561.00

Kindly avail for us the original invoices , for our records.

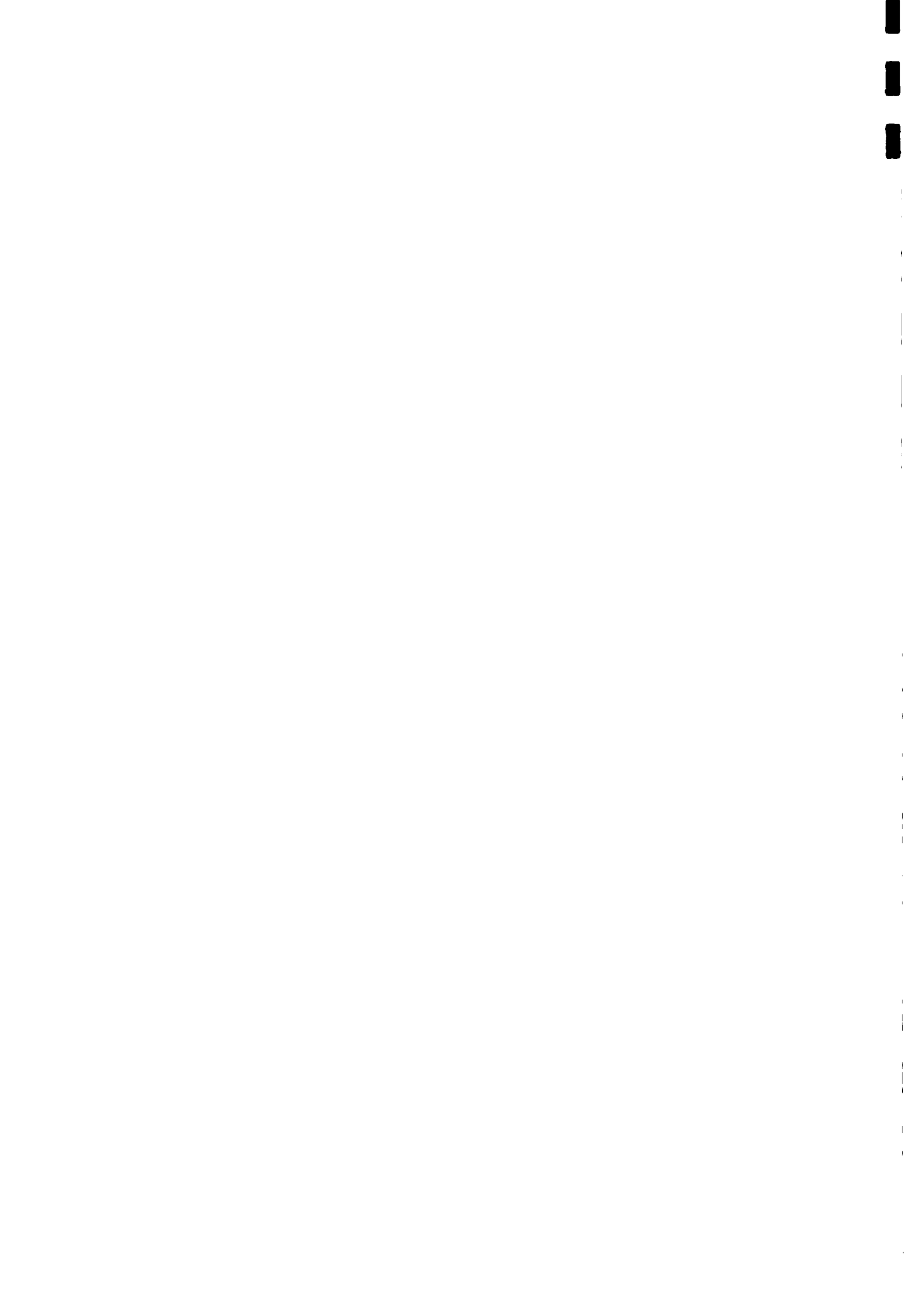
Your co-operation in the above matter shall be highly appreciated.

Yours faithfully,

Mburu Gitu for
MBURU GITU
SECRETARY TO THE COMMISSION

Obando
Attach these to the
proforma invoice
and follow up the
remaining
19 DEC 2005
RECEIVED
MANAGING DIRECTOR







NAIROBI SERENA

one of *The Leading Hotels of the World*

HOTEL

Kenyatta Avenue, P.O. Box 46302, 00100 Nairobi, Kenya, Tel: (254-20) 2822 000 Fax: (254-20) 2725 184, E-Mail: nairobi@serena.co.ke

Creation Date

JAN 6, 2004

Owned and managed by Tourism Promotion Services Ltd.

Invoice Date

Dec 13, 2003

Invoice Number **9000113**

Kenya National Comm. For Human Rights

Fax 2716160

Attn: Alice

Items	Amount
Function	219,811.00

Total Consummed 219,811.00

Less Deposit 107,250.00

Balance Payable 112,561.00

VAT

I agree that my liability for this bill is not waived and agree to be responsible in the event that the Person/Company/Association fails to honour part or full amount of the bill. All payments should be in favour of Nairobi Serena Hotel/Serena Hotels

Signature _____

Please check the bill and attach a receipt to the invoice.

NAIROBI SERENA
HOTEL

*Private Catering
and Events*

0024 MUGYU&I

0162 DEC13'03 9:27PM

KNCFHR DINNER
OPEN FOOD 95239.00
SUBTOTAL: 95239.00
TAX: 2472.14
TOTAL DUE: 120001.00
JUICES
1 OPEN FOOD 13500.00
DRINKS
1 OPEN BEVERAGE 82300.00
9027/KENYA N.00
ROOM CHARGE 219811.00
FOOD 105739.00
BEVERAGE 62300.00
TAX: 26272.14
PAYMENT: 215811.00
10-1 CLOSED DEC14 12:02AM

COMPANY NAME KNCFHR

ADDRESS _____

TEL 2 717900 FAX 2 716160

GUEST NAME ALICE WAIRIMU

TITLE _____

SIGNATURE Alice

NO. 11089

KENYA NATION COMMISSION ON HUMAN RIGHTS
SOCIAL SECURITY HOUSE,
BLOCK A, EASTERN WING,
9TH FLOOR
NAIROBI

PAYMENT VOUCHER

NO. 00007.....

DATE: 2ND DECEMBER 2003

PAYEE: M/S NAIROBI SERENA

PURPOSE OF PAYMENT:

Being 75% advance payment paid to M/s
Nairobi Serena to commemorate the Human
Rights day.

DEPT.	A/CODES	DETAILS OF PAYMENT	AMOUNT KSH	CENTS
052	0657	As above	107,250	00

CHEQUE NO: 000089

DATE DRAWN: 2ND DECEMBER 2003

PREPARED BY:

APPROVED BY SECRETARY: JM Githu

CHEQUE SIGNED BY:

1) JM Githu

2)

3)

KENYA NATION COMMISSION ON HUMAN RIGHTS
 SOCIAL SECURITY HOUSE,
 BLOCK A, EASTERN WING,
 9TH FLOOR
 NAIROBI

PAYMENT VOUCHER

NO.....0071.....

DATE:8TH DECEMBER 2003.....

PAYEE: ...NAIROBI SERENA HOTEL.....

PURPOSE OF PAYMENT:

Being payment in respect of expenses incurred while
 hosting the 1st Human Rights awards.....

DEPT.	A/CODES	DETAILS OF PAYMENT	AMOUNT KSH	CENTS
052	0657	As above	11256	00

SCHR (K)
 PAID CHEQUE
 No.....

CHEQUE NO: 000182.....

DATE DRAWN.....8TH DECEMBER 2004.....

PREPARED BY: F. Obanda

APPROVED BY SECRETARY:.....M. Giller.....

CHEQUE SIGNED BY:

- 1) *[Signature]*.....
- 2)
- 3)

Obanda: Obtain original
 copies of invoice
 and attach as well



Rainmaker

P. O. Box 14432-00800

Nairobi, Kenya

Tel: 254 (20) 856 20 82

254 722 82 12 29

254 721 946 710

rainmaker@wananchi.com

INVOICE

To: KNCHR

At: Mburu Gitu

Date: 21 February 2006

Item: Live Performance by Eric Wainaina and hire of Public Address System

Event: Launch of Knchr Nyeri Branch

Venue: Nyeri

Total Cost: 45 0000.00

RAINMAKER LTD.
P.O. Box 14432-00800
NAIROBI

KENYA NATION COMMISSION ON HUMAN RIGHTS
 SOCIAL SECURITY HOUSE,
 BLOCK A, EASTERN WING,
 9TH FLOOR
 NAIROBI

PAYMENT VOUCHER

NO. 000.52...

DATE: 12TH DECEMBER 2003

PAYEE: RAINMAKER ERIC WAINANA

PURPOSE OF PAYMENT:

Being payment in respect of Artistes performance fee and hire of public address system.

DEPT.	A/CODES	DETAILS OF PAYMENT	AMOUNT KSH	CENTS
052	0657	AS above	45,000	00

PAID BY CHEQUE

CHEQUE NO: 000.102 DATE DRAWN: 12TH DECEMBER 2003

PREPARED BY: R. Obanda APPROVED BY SECRETARY: M. Giti

- CHEQUE SIGNED BY:
- 1) [Signature]
 - 2)
 - 3)



Kenya National Commission on Human Rights

1st Floor, CVS Plaza, Lenana Rd., P. O. Box 74359 - 00200, Nairobi - Kenya.

Tel: 254-20-2717908/2717928/2717256/2712664, Fax: 254-20-2716160

Email: haki@knchr.org

OUR REF:KNCHR/FIN/40

2nd September 2005

**The Managing Director,
Holiday Inn,
P.O.Box 66807-00800
Nairobi.**

Dear Sir/Madam,

REF:REQUEST FOR ORIGINAL INVOICES

The Kenya National Commission on Human rights , used your venue for the hosting of the Strategic Plan and Operational Plan meeting on the 29th January 2004

When settling our bill, we paid on the basis of a Facsimile Transmission Proforma Invoice as follows;

CHEQUE NO.	AMOUNT(KSHS)
238	30,937.50
252	10,312.50

Kindly avail the original invoices , for our records.

Your co-operation in the above matter shall be highly appreciated.

Yours faithfully,

MBURU GITU
SECRETARY TO THE COMMISSION

(254 - 020) 3740920, 3740906
 (254 - 020) 3748823
 Email: lmin@holidayinn.co.ke
 Website: holiday-inn.com/nairobikenya

Holiday Inn®

Cor. Parklands Rd. and Msapo Close
 Parklands, Nairobi
 P.O. Box 66807 - 00800
 Westlands, Nairobi, Kenya

NAIROBI
 VAT Reg. No. 0016329 L
 P.I.N. P000601308 B

COPY OF INVOICE

Group KENYA NAT.COMM.ON HUM RIGHTS

KENYA

ACCOUNT OF:

FOLIO No. 453040
 PIN No. P000601308B
 PAYMENT METHOD:

Adults 1 Kids 0

CASHIER No. 25

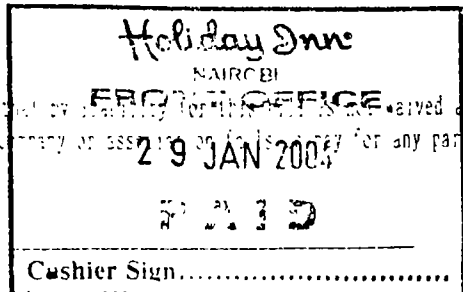
ROOM NO.: 9001

DATE: 11.02.04

DATE	REFERENCE	DESCRIPTION	CHARGES	CREDITS
29.01.		Conference - FOOD 142829	30000.00	
29.01.		Conference - BEVERAGE 142829	5000.00	
29.01.		Conference - MISC. 142829	3750.00	
29.01.		Conference - ROOM HIRE 142829	2500.00	
29.01.		-Deposits transfer at c/i		30937.50
11.02.		Check KSHS CHQ NO:00252		10312.50
			41250.00	41250.00

Balance

0.00 K



I agree to be personally liable for the full amount of charges incurred and agree to be held personally liable in the event that the indicated person, company or association fails to pay for any part or the full amount of these charges

Please note that this invoice has a barcode and the barcode stamped "Paid" acts as an official receipt.

THIS HOTEL IS MANAGED BY LAVADO HOLDINGS BV UNDER LICENCE FROM SIX CONTINENTS HOTELS INC.

KENYA NATION COMMISSION ON HUMAN RIGHTS
 SOCIAL SECURITY HOUSE,
 BLOCK A, EASTERN WING,
 9TH FLOOR
 NAIROBI

PAYMENT VOUCHER

NO.....

DATE: 27TH JANUARY 2004

PAYEE: HOLIDAY INN

PURPOSE OF PAYMENT:

Being 75% advance payment for the Strategic plan and operational plan meeting to be held at the Holiday Inn

DEPT.	A/CODES	DETAILS OF PAYMENT	AMOUNT KSH	CENTS
052	0654	As above	30,937	50
		<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: auto;"> SCH (K) PAYEE NO </div>		

CHEQUE NO: 000238 DATE DRAWN: 27TH JANUARY 2004

PREPARED BY: E. Obanda APPROVED BY SECRETARY: [Signature]

CHEQUE SIGNED BY:

- 1) [Signature]
- 2) [Signature]
- 3)

KENYA NATION COMMISSION ON HUMAN RIGHTS
 SOCIAL SECURITY HOUSE,
 BLOCK A, EASTERN WING,
 9TH FLOOR
 NAIROBI

PAYMENT VOUCHER

NO.....

DATE: 3RD FEBRUARY 2004.....

PAYEE: HOLIDAY INN.....

PURPOSE OF PAYMENT:

Being final settlement of 25% for the Strategic plan and operational plan meeting held at the Holiday Inn.

DEPT.	A/CODES	DETAILS OF PAYMENT	AMOUNT KSH	CENTS
052	0654	As above	10,812	50

CHEQUE NO: 000252.....

DATE DRAWN: 3RD FEBRUARY 2004.....

PREPARED BY: E. Banda.....

APPROVED BY SECRETARY: [Signature].....

CHEQUE SIGNED BY:

- 1) [Signature].....
- 2) [Signature].....
- 3)
.....



Kenya National Commission on Human Rights

1st Floor, CVS Plaza, Lenana Rd., P. O. Box 74359 - 00200, Nairobi - Kenya.

Tel: 254-20-2717908/2717928/2717256/2712664, Fax: 254-20-2716160

Email: haki@knchr.org

OUR REF:KNCHR/FIN/40

2nd September 2005

**The Managing Director,
Norfolk Hotel,
P.O.Box 58581,
Nairobi.**

REF:REQUEST FOR ORIGINAL INVOICES

The Kenya National Commission on Human Rights, used your venue, for the media breakfast and launch of the KNCHR newsletter 'Nguzo Zetu' on the 1st March 2004.

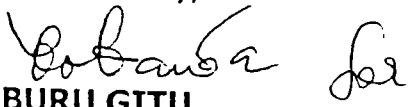
When settling our bill, we paid on the basis of a Facsimile Transmission Proforma invoice as follows;

CHEQUE NO.	AMOUNT(KSHS)
288	54,000.00

Kindly avail for us the original invoices , for our records.

Your co-operation in the above matter shall be highly appreciated.

Yours faithfully,


MBURU GITU
SECRETARY TO THE COMMISSION

THE NORFOLK HOTEL
Certified as True Copy of the Original
Alice

ATT: ALICE NDERITU



INVOICE NO: 3487

INVOICE

Customer		Date <u>03/03/04</u>
KNCHR		Order No. _____
Address P.O.BOX		Representative(s) _____
City NAIROBI		
Phone _____		

Qty	Description	BILL NUMBER	DATE	Unit Price	TOTAL
55	BREAK FAST	6955/6943	04/03/04	1,350.00	74,250.00
16	PADS & PENS	6943	04/03/04	100.00	1,600.00
0				0.00	0.00
0				0.00	0.00
0				0.00	0.00
0				0.00	0.00
0				0.00	0.00
0				0.00	0.00
0				0.00	0.00
0				0.00	0.00
0				0.00	0.00
0				0.00	0.00
0				0.00	0.00
0				0.00	0.00

LESS PAYMENT RCT 52298 SHS 75,850.00
(54,000.00)

PAYABLE AMOUNT SHS 21,850.00

PIN # 0000596314S VAT REG # 0104692K

HOPE YOU ENJOYED OUR FACILITIES
THANK YOU

KENYA NATION COMMISSION ON HUMAN RIGHTS
 SOCIAL SECURITY HOUSE,
 BLOCK A, EASTERN WING,
 9TH FLOOR
 NAIROBI

PAYMENT VOUCHER

NO.....

DATE: 27TH FEBRUARY 2004

PAYEE: NORFOLK HOTEL

PURPOSE OF PAYMENT:

Being payment in respect of the KNCHR breakfast meetings to be held at the NORFOLK HOTEL.

DEPT.	A/CODES	DETAILS OF PAYMENT	AMOUNT KSH	CENTS
052	0651	As above (40 x Ksh. 1,350/=)	54,000	00

CHEQUE NO: 000288 DATE DRAWN: 27TH FEBRUARY 2004

PREPARED BY: F. Obanda APPROVED BY SECRETARY: [Signature]

CHEQUE SIGNED BY:

- 1) [Signature]
- 2) [Signature]
- 3)

Appendix 7(a)



Kenya National Commission on Human Rights

NSSF Building 9th Floor Block A, P.O. Box 74359-00200 Nairobi - Kenya.

Tel: 254-2717928, Fax: 254-20-2716160

Email: haki@knchr.org

Appendix 7 (a)

OUR REF: KNCHR/FIN/40

February 25, 2005

The Permanent Secretary,
Ministry of Finance,
Treasury,
Nairobi

Attention: Ms. Josephine Gichuhi

RE: REQUEST FOR A SEPARATE VOTE FOR THE KENYA NATIONAL COMMISSION ON HUMAN RIGHTS AND APPOINTMENT OF ACCOUNTING OFFICER

Further to our meeting of 23 February 2005, below is the justification for the request by the Kenya National Commission on Human Rights (the National Commission) for the establishment of separate vote and the appointment of an accounting officer. This issue has previously been discussed with the Permanent Secretary to the Treasury. There are several correspondences on file on the subject.

There is a strong case for the establishment of a vote for the National Commission and the appointment of an Accounting Officer. The Commission is a unique public institution with a special mandate.

1. The Commission has a unique mandate

The mandate of the Commission is summarised in the long title of the Constitutive Act, which reads 'An Act of Parliament to provide for the establishment of the Kenya National Commission on Human Rights for the better promotion and protection of human rights and for connected purposes'. The specific functions of the Commission are set out in Section 16 of the Act.



The Commission's mandate is unique because:

- a) The Commission can investigate complaints on human rights violations committed by any person or institution. The investigation powers extend to the executive, legislative, and judicial branches of government. The Commission can investigate violations of civil and political rights as well as violations of economic and social rights.
- b) In the exercise of its powers, the Commission has 'the powers of a court' including the power to issue summonses or other orders requiring the attendance of any person before the Commission and the production of any document or record, the power to question any person in respect of any subject matter under investigation before the Commission, and the power to require any person to disclose any information within such persons knowledge relevant to any investigation before the Commission (S. 19 (1)).
- c) The Commission has powers to order the release of any person who is unlawfully detained or restricted and the payment of compensation (S. 19 (2)). This mandate is analogous to that of the judiciary.
- d) The Commission has an unfettered right to access all places of detention including prisons and police stations to assess conditions under which inmates are held.

2. The Commission is a unique public institution

The Commission is established by the Kenya National Commission on Human Rights Act, Act No. 9 of 2002 (the Constitutive Act) as a body corporate with perpetual succession (S. 3). The uniqueness of the Commission can be seen from the following:

- a. In the exercise of its functions, the Commission is not 'subject to the direction or control of any other person or authority' (S. 18).
- b. The Commissioners have security of tenure similar to that enjoyed by Judges (S. 11(3)). The President or the Minister cannot remove a Commissioner from office except on the recommendation of a Tribunal.

- c. The Commissioners work on a full time basis (S 6 (10)). The President appoints them after a public process of nomination. Parliament conducts interviews. The names of suitable candidates are presented through Parliament to the President.

These provisions distinctly set apart the Commission from parastatals and other public bodies.

3. The Commission needs financial and operational independence to discharge its mandate

The Commission is established as an independent body, in conformance to the UN Principles on national human rights institutions. The independence of the Commission is based on the fact that for the Commission to monitor the Government's compliance with its human rights commitments, it needs to have independence. This independence necessarily means that financial independence of the Commission is a *sine-qua non* and mandatory.

A separate vote is necessary for the Commission to fully realise its independence. This independence cannot be realised when the Ministry of Justice and Constitutional Affairs controls the Commission's money, as is the case presently. The Ministry can potentially threaten independence of the Commission by, for example, reallocating the grant to the Commission or undue delays in processing and remitting the disbursements. Moreover, the Ministry of Justice and Constitutional Affairs is one of the arms of Government that the Commission will monitor in fulfilment of its statutory mandate.

4. Separate votes have been created for similar government bodies, for which independence is key, including the judiciary

The examples include the Electoral Commission of Kenya, the Judiciary, and the National Security Intelligence Service. Moreover, our counterparts across Commonwealth Africa, such as in Uganda, Ghana, and South Africa have separate votes to ensure their independence.

The set-up of the Commission is similar to that of the Judiciary, which has its own vote. For example, Commissioners enjoy security of tenure (s. 9 and 11(1)), they work on a full-time basis, they are paid directly out of the Consolidated Fund (s. 10(2)), and they have the rank of judges. The Chair has the rank of Judge of Appeal while the Commissioners have the rank of Judges of the High Court (s. 6(10)).

5. The provision of the Constitutive Act, anticipate the National Commission as an independent institution within its vote and accounting officer

The financial provisions of the Commission (Section 26-31) lay a firm basis for the Commission to have and manage its own vote. These provisions include the power to open and maintain bank accounts (s. 27), solicit and control funds from donors, and submitting to annual audit by the Controller and Auditor-General (s. 31).

The Commission has a high level officer who would become the Accounting Officer. The Secretary to the Commission, who is appointed by the Commission under Section 7 (1) of the Act, has the status of a Permanent Secretary.

6. The present arrangements are not effective

Presently the Commission receives from Government a grant through the Ministry of Justice and Constitutional Affairs. The grant is disbursed in quarterly instalments. Difficulties have included delays in releasing the exchequer and the partial payment of exchequer. Specific cases are available. This makes planning difficult.

The present arrangements made it difficult for the Commission to maintain levels of secrecy necessary for its work in investigating human rights violations. The Ministry of Justice and others must necessarily know its plans.

7. The opportunity for high level interaction with Government officers through appointment of an accounting officer

The appointment of an accounting officer for the Commission will provide the Commission with the opportunity to interact with other accounting officers on issues of human rights. Understanding of human rights remains relatively poor in the public sector. Improvements in human rights will create a welcoming environment for investment. Human rights and development is one and the same thing.

8. The Commission is growing rapidly

Presently, the Commission is small but it is growing rapidly. From the next financial year, the Commission will open branch offices across the country. The staff levels are also increasing rapidly.

In conclusion, there is a strong case for the establishment of a vote for the Kenya National Commission on Human Rights and the appointment of an Accounting Officer.

Please see the provisions of the Kenya National Commission on Human Rights Act, 2002, a copy of which is attached for ease of reference.

A handwritten signature in black ink, appearing to read 'Mburu Gitu', written in a cursive style.

MBURU GITU

SECRETARY TO THE COMMISSISON

Appendix 7(b)



KENYA NATIONAL COMMISSION ON HUMAN RIGHTS

(Established under the Kenya National Commission on Human Rights Act, 2002)

P O Box 74359, 00200-
Nairobi
Tel. 2717908 /2717928
Fax: 2716160
E: mail:
haki@skyweb.co.ke

Bishops Road,
Social Security House,
Block A, Eastern Wing
9 Floor

OUR REF: KNCHR/FIN/40

February 20, 2004

S.L. Boboti,
The Accountant-General,
Ministry of Finance,
Nairobi

RE: REQUEST FOR A SEPARATE VOTE FOR THE KENYA NATIONAL COMMISSION ON HUMAN RIGHTS

The Permanent Secretary to the Treasury, Mr. Joseph Magari, has advised us to place before you the request for a vote to be created for the Kenya National Commission on Human Rights.

The Commission is an independent National Human Rights Institution established by the Kenya National Commission on Human Rights Act, 2002. The Commission is founded on the 'Paris Principles' on the establishment and competence of national human rights institutions.

The Commission monitors government actions and policies to ensure human rights principles are adhered to. When human rights violations occur, the Commission is empowered to take action against those responsible and to provide a remedy to the affected. The Commission advises the government, among other things, on measures to enhance human rights protection. The Commission's work is crucial to putting Kenya on a trajectory of democratic growth and turning the country into a human rights State.

The Commission will be establishing branches in different parts of the country.

The Commission's request for a vote is based on the following grounds:

- (a) The Commission is established as an independent body in accordance to the UN Principles on National Human Rights Institutions. The independence of the Commission is based on the fact that for the Commission to monitor the Government's compliance with its human rights commitments, it needs to have independence.

Article 18 of the Kenya National Commission on Human Rights, 2002, lays a further basis for the independence of the Commission. This provision states: "The Commission shall have all the powers necessary or expedient for the proper performance of its functions under this Act and shall not be subject to the direction and control of any other person or authority".

A separate vote is necessary for the Commission to fully realise its independence. And the Commission cannot realise its independence when the Ministry of Justice and Constitutional Affairs controls the Commission's money, as is the case presently. The Ministry can potentially threaten independence of the Commission by, for example, reallocating the grant to the Commission or undue delays in processing and remitting the disbursements.

- (b) Separate votes have been created for similar government bodies, for which independence is key, for example the Electoral Commission of Kenya, the Judiciary, and the National Security Intelligence Service.
- (c) The set-up of the Commission is similar to that of the Judiciary, which has its own vote. For example, Commissioners enjoy security of tenure (s. 9 and 11(1)), they work on a full-time basis, they are paid directly out of the Consolidated Fund (s. 10(2)), and they have the rank of judges. The Chair has the rank of Judge of Appeal while the Commissioners have the rank of Judges of the High Court (s. 6(10)).

(d) The financial provisions of the Kenya National Commission on Human Rights (Section 26-31) lays a firm basis for the Commission to have and manage its own vote. These provisions include the power to open and maintain bank accounts (s. 27) and submitting to annual audit by the Controller and Auditor-General (s. 31).

(e) The Kenya National Commission on Human Rights has a high level officer who would become the Accounting Officer. The Secretary to the Commission, who is appointed by the Commission under Section 7 (1) of the Act, has the status of a Permanent Secretary.

We look forward to favourable consideration of our request.



MBURU GITU

SECRETARY TO THE COMMISSION

CC The Hon. Mr. Kiraitu Murungi,
Minister for Justice and Constitutional Affairs,
Sheria House,
Nairobi

Mr. Joseph Magari,
Permanent Secretary,
The Treasury
Nairobi

Mr. Jeremiah Matagaro, MBS
Permanent Secretary,
Ministry of Justice and Constitutional Affairs,
Nairobi

Hon. Paul Muite,
Chair,
Parliamentary Committee on Legal Affairs,
Nairobi