

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS

STRATEGIC PLAN (Draft 3)

2003-2008

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1.0 EXECUTIVE SUMMARY

Kenya aspires to be a human rights state. Human rights are founded on the inherent dignity of the human person. Human rights are by definition, the rights one has simply by being human. As the Universal Declaration of Human Rights states, “All human beings are born free and equal in dignity and rights”.

The Kenya National Commission on Human Rights (hereinafter referred to as ‘the Commission’), as an independent national institution established by an Act of Parliament, is mandated with the responsibility of harnessing national efforts towards the creation of a human rights state. In a human rights state, all citizens enjoy full access to *all* their human rights, and these include;

- ❑ **The integrity of the person**, (freedom from torture, summary executions, enforced disappearance, arbitrary arrest or detention, withholding of food as a weapon)
- ❑ **Civil and political rights** (including freedom of opinion, religion, movement, expression, protection against arbitrary arrest, abuse of administrative detention)
- ❑ **Freedom from discrimination** (including discrimination based on religion, sex, language, race, ethnic or national origin, social origin, sexual orientation, HIV status, in pay, access to employment, provision of social services)
- ❑ **Economic/social /cultural rights** (including right to an adequate standard of living, including food, clothing shelter, right to the highest attainable health care, right to free primary education and accessible secondary education, right to the opportunity to work)
- ❑ **Women’s rights** (including freedom from discrimination in terms of civil and political rights, property rights, employment, housing, education, marriage and divorce laws, incidence of violence in public and in private spheres)
- ❑ **The status of people with disabilities** (including civil and political rights, economic, social cultural rights, independent participation in social economic life)
- ❑ **Indigenous peoples rights** (civil and political, economic social and cultural rights, discrimination, land rights, respect for cultural identity)
- ❑ **Children’s rights** (including sexual exploitation, child labour, access to health care, education, use of children in armed conflicts)

The Commission intends to incorporate into its human rights work issues of **good governance** and **democratic development** and values and practices in government and the civil society. There is a powerful synergy between respecting rights, fostering democratisation and supporting good governance.

Democratisation builds the effective participation of individuals in decision-making and the exercise of power in society (freedom of expression, including pluralism, independence of judiciary and rule of law, constitutional government and effective legislative bodies, and the concept that diverse forms of governments could be practised).

Good governance ensures the effective, honest, equitable and accountable exercise of power by government. These values of justice, equity, participation and accountability that underlie the three concepts are deeply held by the Commission.

This Strategic Plan, which was developed in a participatory process that included all key (government and non-governmental) human rights organizations in Kenya, covers a period of five from 2003-2008 and it discusses how the Commission plans to deliver its mandate.

The Plan is guided by the Commission's vision of a strong and vibrant human rights culture founded on equality and justice, and informed by human rights challenges that are presently facing Kenya, which include:

- ❑ Poverty, corruption, negative ethnicity, discrimination against vulnerable and disadvantaged groups, insecurity and conflict, and ignorance of human rights.
- ❑ Others are weak legal and institutional framework for protection of human rights, the HIV/AIDS pandemic, competition for scarce land and other resources, the challenge of dealing with past human right violations, terrorism, and globalisation.

Areas of Focus

The Commission will work towards the establishment of a society that respects human dignity, social justice and equal opportunity, and its work falls within the following five thematic areas:

- ❑ Conducting human rights investigations and providing appropriate redress to victims of violations,
- ❑ Researching and monitoring on compliance of human rights norms and standards,
- ❑ Human rights education and training,
- ❑ Campaigns, advocacy, and collaboration with other stakeholders
- ❑ Institutional capacity building

Values

The Commission has made the strategic choice to have its policies and practices governed by core values. It undertakes to have these values fully integrated in programming, organizational reports, financial, administrative and human resource management systems, performance measurements, and public relations and to nurture them into a coherent value system. These values are: independence, accessibility, humility, professionalism, gender, diversity and equity, accountability, participation, equality, and people centeredness.

Strategies

Together with its wide range of partners, the Commission will design and implement its programmatic interventions to respond to least one of the following criteria: high impact, high demonstration effect, legacy building, and special edge of the Commission.

The Commission's mandate will be realised by focusing on five strategic objectives:

- ❑ Reducing systemic human rights violations
- ❑ Providing leadership in framing and informing human rights discourse.
- ❑ Increasing opportunities for realisation of economic, social, and cultural rights
- ❑ Establishing comprehensive human rights education systems
- ❑ Establishing institutional capacity to deliver effectively/efficiently on human rights

Funding

The Commission expects to draw the bulk of its funding from the government. However it is allowed to receive grants and donations from any other source provided it keeps proper records of the same for audit by the Controller and Auditor General.

Accountability and Transparency

The Commission recognizes that as a key change agent, accounting for results provides an important reference point for others and it is determined to provide leadership in this regard especially for governmental bodies. To be a high performance organization will also demand that the Commission puts in place information tracking systems that will support decision-making based on lessons learnt and best practice.

It takes a considerable length of time for change to occur; government cannot be expected to guarantee respect for all rights immediately. The Commission's achievements in this regard will be part of an ongoing process. Modesty in public expectations and realism in planning by the Commission will present a delicate balancing act. However, the Strategic Plan will be critically reviewed with key partners and updated annually. The Plan will be implemented through Annual Operational Plan and Budget.

2.0 INTRODUCTION TO AND UNIQUENESS OF THE COMMISSION

2.1 The Kenya National Commission on Human Rights

The Kenya National Commission on Human Rights (KNCHR) is an independent National Human Rights Institution established by the Kenya National Commission on Human Rights Act, 2002. The Commission is established in accordance with the United Nations approved *Paris Principles* on the constitution, mandate, and independence of such bodies. The United Nations, and more so the United Nations High Commissioner for Human Rights, sees the establishment of effective national human rights institutions as key to protection and promotion of human rights within each country.

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 highlights of the Commission's mandate are threefold: its focus is on *all* human rights, that is, cultural, economic and social, civil and political, and third generation rights (environmental and developmental rights); it draws upon all international human rights instruments, including those not ratified and domesticated by the State; and, it has powers to sit as a quasi-judicial body and make binding decisions.

The President appointed Commissioners on the 29th July 2003, upon the recommendation of Parliament. They enjoy security of tenure and serve terms of 3-5 years; they are eligible for reappointment. The Commissioners are drawn from civil society organizations and the public service. The Chair has the status of a judge of the Court of Appeal, the Commissioners the status of a judge of the High Court, and the Secretary the status of a Permanent Secretary.

The Standing Committee on Human Rights, appointed by the President in 1996, is the predecessor to the Commission. The Committee worked under a constraining environment: the body lacked any statutory basis, the Committee was perceived not to be independent of the Executive arm of government, members of the Committee worked on a part-time basis, and lacked security of tenure, and the Committee did not have adequate financial and human resources. Some of the Committee's achievements include developing the Bill that eventually led to establishment of the Commission, highlighting the *King'ongo* incident in which prisoners were murdered by prison warders, and research into the deplorable conditions of prisons. Many of the constraining factors that hindered the Committee's work have been addressed in the Commission's constitutive Act.

The Commission's independence is secured by the Act. The law states that the Commission 'shall not be subject to the direction or control of any other person or authority'. The Commission is a body corporate with perpetual succession and a common seal.

2.2 Uniqueness Of The Commission

The Commission is the ultimate authority in human rights in Kenya. Established by an Act of Parliament, it is mandated to promote and protect human rights, to enforce human rights policies and provide leadership in the human rights field.

While there are many organizations, public and NGOs, involved in the protection and promotion of human rights, the Commission is the final protector, arbitrator and defender. The Commission is able to provide redress, something NGOs and other bodies cannot do.

The Commission ensures that human rights legislative policies are implemented and lobbies for introduction of “good practices” in human rights policies and legislation. Its mandate includes all human rights. The Commission provides strategic leadership in the human rights field, setting and modifying human rights standards, promoting human rights culture and ensuring that public and private institutions adhere to national and international human rights norms.

Although funded by the Government the Commission operates independently not only to ensure that all human rights legislations are strictly adhered to but also in monitoring and lobbying proactively for legal framework that meets international standards and good practices in human rights.

2.3 Lessons learnt from other National Human Rights Institutions

At a retreat organized in late October 2003, Commissioners of the Kenya National Commission on Human Rights benefited from lessons and best practices of national human rights institutions from Uganda, Tanzania and South Africa. In addition, copies of reports by the International Council on Human Rights and Human Rights Watch on the role and impact of national human rights institutions were reviewed. The important lessons learnt from other Commissions, are summarised below.

Given that most human rights violations are perpetuated by states against their own citizen, improvement in practice must come principally at the national level;

Independence from the Executive is central for effectiveness and credibility. Experiences from other countries suggest that the Executive has an almost natural inclination to control or influence National Human Rights Institutions, to serve its ends. Experience shows that eternal vigilance to check this impulse is constant and ever-present. Independence also includes financial independence both from government and other partners. Thus a balance needs to be struck between funding from government—which should be clear and direct from Consolidated Fund—and funding from other sources, which also helps ensure lack of dependency on the Executive whims.

It was also clear that accessibility to petitioners and complainants by having offices spread across the country was critical to the fulfilment of the mandate of National Human Rights Institutions. In addition, it was imperative that these institutions be staffed with competent and committed activists and professionals.

National Human Rights Institutions need to ensure good relations with stakeholders in human rights and especially with civil society organizations, including human right NGOs, that can assist, collaborate and input into their work.

Media relations are crucial and should be nurtured. Media training in reporting on human rights issues was recommended.

Critically, for effectiveness, the work of National Human Rights Institutions needs to be driven by their strategic vision and not just by the complaints received.

2.4 Strategic Planning Process

This is the first Strategic Plan prepared by the Kenya National Commission on Human Rights. The Plan was prepared by the Commission with the support of two external consultants. The framework for the Plan was developed during a five-day strategic planning workshop with partners, staff and Commissioners, held in November 2003. In the preparation of this Plan, the Commission benefited immensely from the contributions of representatives from similar bodies in Uganda, Tanzania, and South Africa and from the Kenya Police, Kenya Prisons Service, and civil society at the Strategic Planning workshop.

The draft Strategic Plan was disseminated to the Kenyan public through a supplement in the *Daily Nation*, Kenya's largest English language newspaper and *Taifa Leo*, the largest Kiswahili newspaper. Their combined readership exceeds 5 million. The Commission invited Kenyans to give feedback on the comprehensiveness of the Plan. [In addition, the Plan was presented to key stakeholders for their comments].

Each year, the Commission will in collaboration with partners, critically review and update the Plan. Annual Operational Plan and Budget will be developed based on the strategic objectives and result areas in the Strategic Plan.

3.0 VISION, MISSION, AND VALUES

3.1 Our Vision

A strong and vibrant human rights culture founded on equality and social justice for all.

3.2 Our Mission

The Kenya National Commission on Human Rights is an independent national institution established by an Act of Parliament as a leading agency in protection and promotion of human rights in Kenya. The Commission will work vigorously and independently to decrease incidents of human rights violations and to ensure that the human rights of everyone in Kenya are fully and firmly protected in law, policy and practice. To this end the Commission will assess law, policy and practice in Kenya against internationally accepted rules and principles for the protection of human rights and will exercise to the full the functions conferred upon it to ensure that those rules and principles are promoted, adopted and applied throughout the country.

In carrying out its functions the Commission will be independent, fair, open, accessible and accountable. The Commission is committed to equality of opportunity for all and to the participation of others in its work. It will perform its functions in a manner that is efficient, effective, and in the interests of all the people of Kenya.

The Commission will contribute to the establishment of a society that respects human dignity, social justice and equal opportunity. To achieve this, the Commission will conduct:

- ❑ Investigations on human rights violations and provide redress to victims of violations
- ❑ Research and monitoring on compliance of human rights norms and standards
- ❑ Human rights education and training
- ❑ Campaigns, advocacy, and collaboration with other stakeholders,

3.3 Core Values

The Commission has made the strategic choice to have its policies and practice governed by core values. The Commission undertakes to have these values fully integrated in programming, organizational reports, financial, administrative and human resource management systems and practices, performance measures, and public relations and to nurture them into a coherent value system.

The Commission has identified nine core values, which it wishes to adhere to in all of its work. These values are independence, accessibility, humility, professionalism, gender and diversity equity and equality, accountability, participation and people centeredness.

Independence

Although the Commission is a governmental body, because of the nature of its remit, it will operate without the direction of any government arm. The ability to act without external or undue influence is of extreme importance for the Commission's legitimacy. The Commission intends to be completely independent from any outside influence, be it the Government, a political party, a large company, a non-governmental human rights organisation or a group of activists.

Accessibility

As a National Human Rights Institution, the Commission will maintain an open-door policy and will ensure that its services are within reasonable reach. It will also be empathetic to petitioners in recognition of the need to resolve their complaints. The Commission will be close to members of the public, welcoming visitors and meeting individuals and groups at other premises if this is more convenient or suitable. Commission will travel to any part of Kenya to investigate human rights violations. It will ensure that as much as possible its services and facilities are accessible to all, particularly marginalized groups and persons with disabilities. The Commission will also strive to make all publications as easy to understand as possible.

Humility

The Commission will approach its tasks with humility. This humility requires the Commission to be fully accountable to its clients, the government, and partners. The Commission will strive to be flexible, simple, and responsive. It will in addition be prudent with public resources to avoid any wasteful spending.

Professionalism

The Commission will establish and nurture a strong work ethic. It is also committed to high quality of work, high levels of competence, integrity, and respect for innovation. The emphasis will be on achieving results and providing value added services and institutionalizing the culture of learning and continuous improvement.

The Commission will give a proper hearing to any person or groups, be objective when assessing evidence, and always use internationally accepted rules and principles on human rights as the baseline when doing so.

Gender and Diversity Equity and Equality

The Commission is fundamentally committed to equality of opportunity. Human rights cannot be properly protected if such equality is not at the same time guaranteed. The Commission will therefore strive to promote equality of opportunity internally as well as in all the activities it conducts. The Commission believes in the principle of equal opportunity and affirmative action with respect to gender and recognises that gender equity is a key pathway to the realization of equality. It is committed to observing gender equity both in its internal policies and practice and externally in its program interventions.

Equal protection and non-discrimination underpins the Commission's mandate. It will mainstream equal opportunity and affirmative action especially for vulnerable and historically disadvantaged groups. The Commission will conduct its internal and external business with fairness and impartiality and will at all times be sensitive to the various forms of social-cultural diversity.

Accountability

The Commission takes responsibility of its objectives with full recognition of the various stakeholders (who include staff, the public, government, donors, Civil Society Organizations) in a transparent way. It will deliver effectively on its mandate and at the same time avoid fruitless and wasteful expenditure. The Commission is open to feedback and criticism. The Commission will produce Annual Reports and disseminate them and submit audited accounts for the scrutiny by the National Assembly.

Participation

The Commission recognises the involvement of all stakeholders in the running of its policy and other key strategic decisions is a critical success factor. It will use open and democratic supervision, management and communications styles. The Commission will respect the participation of stakeholders e.g. petitioners and/or implementation partners. The Commission wishes groups and individuals to feel that the Commission is *their* Commission. This means that groups and individuals will be able to participate directly or indirectly in the Commission's activities. The Commission will use expertise of Kenyans in all areas of work; involve them in deliberations and in awareness raising and to seek their advice where appropriate.

People-Centeredness

The Commission stands for the greater public good. It pays special attention to the human rights of poor and vulnerable groups whose knowledge and capabilities it must respect and consult. The focus is on the people and their human rights issues and not the vocal elite and their organisations. Program results will focus on meaningful human development changes.

4.0 GAPS IN HUMAN RIGHTS PROTECTION IN KENYA

The establishment of the Kenya National Commission on Human Rights is timely. It comes at a time when Kenya is going through a challenging political and economic period. While immense and varied, the challenges which face the Commission as it endeavours to wean and nurture a human rights culture in the country boil down to one fundamental problem: State and non-State actors are still unconscious of or fail to acknowledge that sustainable development of the country must take account of the people's human rights, and that sustainable development is intrinsically linked with the level of human rights' enjoyment.

Some of the challenges that the Commission will confront as it fulfils its mandates include:

4.1 Poverty

Poverty leads to the violation of a multitude of rights. According to Kenya's Poverty Reduction Strategy Paper (PRSP), more than 60 percent of Kenyans live below the poverty line yet policy-makers have still not appreciated the interface between endemic poverty and abuse of human rights. That link is captured in the 2000 UNDP Human Development report, which notes that '...development is essential for realising human rights and human rights are essential for human development'.

Kenya continues to rank low on world economic and social indices with regard to provision of health services, food, shelter, water and employment to its people. The UNDP Human Development Report for 2000 reports the following grim statistics for Kenya: more than 1.6 million people were infected with HIV, there were only 15 doctors for every 100,000 people compared to 400 doctors for the same number of people in a developed country like Spain, the adult illiteracy rate was 19.5%, life expectancy was at 51 years, and there were only 3 personal computers for every 1,000 people compared to 479 for a similar number in the United States of America.

These manifestations of poverty are at one and the same time indicators of human rights violations particularly in the realm of economic, social and cultural rights as guaranteed by the Universal Declaration of Human Rights, 1948, the International Covenant on Economic, Social and Cultural Rights, 1966, and the African Charter on Human and People's Rights, 1981, all of which Kenya is a party to. Negative influences of globalisation and misplaced economic and social priorities are at the heart of this coalition of poverty and human rights abuse.

4.2 Corruption

Corruption is endemic in Kenya's public and private sector. The country has in recent years consistently ranked high on Transparency International's reputed global corruption index. Corruption exacerbates poverty, itself a human rights violation, by removing resources from public to private gain. Corruption has led to collapse of public enterprises thereby resulting to loss of employment. It has also contributed to reduction of foreign investments, resulting in slowed-down economic performance and escalation of poverty. The Government has escalated and prioritised the fight against corruption. Anti-corruption efforts need to be addressed and prioritised as a human rights question. However, the fight against corruption must be based on full respect for the rule of law and human rights.

4.3 Negative Ethnicity/Tribalism

Kenya is an ethnically diverse Nation-State with more than 42 groups, each defined by its own language and culture. Diverse ethnicity is not by itself conflictual; to the contrary it ought to be a source of strength. In Kenya, politicians have over the years engineered ethnic animosity for short-term personal gains. Politically instigated ethnic clashes have in the 1990's resulted to massive human rights violations such as death of thousands of people and injury to many more, destruction of property worth billions of shillings, and the traumatizing of the immediate victims and their relatives.

Political organisation and mobilisation is fundamentally based on ethnic communities, thereby inhibiting the growth and institutionalisation of democracy. Human rights and democracy complement each other.

The key human rights challenge is to understand how to prevent increased ethnic polarisation because if it explodes, the human rights consequences would be untenable and catastrophic.

4.4 Vulnerable and Special needs groups

Over the years, the human rights of vulnerable groups in society have been abused by the state and non-state actors, state institutions and society in general. Women have been discriminated owing to sexism, for example, being disinherited of property because of their gender. The rights of children to education, health and self-fulfilment have remained un-actualised. Persons with disabilities have found their rights to work, education and social well being impeded by institutionalised disablism. Many individuals or groups have been forced to remain on the margins of society on account of their ways of life, for example as hunter-gatherers, pastoralists, internally-displaced persons or refugees. This situation has been exacerbated by absent or inadequate legislative and policy measures and programmes to check or correct the resource and facility gaps, cultural inhibitions and other prejudices which are normative within these groups.

The majority of people in the historically marginalized parts of Northern Kenya are unaware of their basic human rights and how to exercise them. Nor are they able to link their materials conditions – poverty, lack of access to education and health services, insecurity, etc – to deprivation of basic human rights. Civil society efforts to promote human rights education in Northern Kenya are insufficient. The perception that this region is prone to insecurity has been a disincentive. Insufficient attention has been given to promotion of human rights among the armed forces and law enforcement agencies, which may explain the fact that these institutions are the ones not often linked with human rights violations.

4.5 Insecurity and Conflict

The incidence, character and perception of crime and insecurity experienced by Kenyans remain one of the major challenges in this country. The proliferation of small arms, high levels of poverty, and inadequate policing has contributed to this. This has had a negative impact on the economic development of the nation.

Crime and insecurity has not reduced to any extent in recent times. In the name of combating crime, the police have been accused of executing suspects in violation of the law and of participating in crimes. In the northern parts of Kenya, traditional cattle rustling has been

captured by commercial entrepreneurs, resulting in high levels of death and injury to pastoral communities. Factional politics in the country is a recipe for ethnic conflict. The media carries material with potential to incite the public against each other.

The prevention of conflict is important in addressing human rights: conflict breeds human rights violations.

4.6 Weak legal and institutional framework for protection of human rights

The Bill of Rights in the Constitution of Kenya is neutered by legislation that Parliament has passed to restrict freedoms of expression, movement and association, among others. The Bill of Rights does not recognise economic, social and cultural rights. As important, the Bill of Rights is not in line with international human rights standards in its continued support of archaic norms like capital punishment. Yet, the constitutional review process remains far from complete and it is uncertain when Kenyans will live under a constitutional dispensation that guarantees them enjoyment of holistic and un-fragmented human rights. Added to this, is the fact that the state has not been a consistently proactive participant in international human rights compliance mechanisms.

The judiciary, a key institution in the protection of human rights, is not accessible to the poor due to high expenses involved in litigating, long delays averaging three years in hearing cases, and corruption. In the past, due to lack of independence, judges have not been keen to arbitrate on human rights cases; more likely than not they dismissed them on technicalities. Within the law enforcement agencies, there has been a pervasive culture of impunity in favour of those accused of human rights violations.

The Standing Committee on Human Rights, the predecessor of the Commission, lacked the legal framework and independence to provide quasi-judicial remedies to victims of human rights violations.

4.7 The HIV/AIDS pandemic

The statistics are grim. More than 700 Kenyans die every day from HIV/AIDS. By 2001, 2.5 million Kenyans had been infected and 1.5m had already succumbed to death. In 1999, politicians and policy-makers realised the extreme nature of the HIV/AIDS pandemic in the country and it was declared a national disaster.

Persons with HIV/AIDs are entitled to full protection of the fundamental rights of all human beings. The reality however is that they suffer from stigmatisation and discrimination, particularly at the work place where they are denied access to promotions and training opportunities. Persons with HIV/AIDs have a right to affordable access to life-prolonging drugs yet in Kenya the majority do not have access to these drugs. Access to essential drugs needs to be agitated as a human rights issue. It is necessary to develop and enforce an elaborated pro-human rights legislation that protects those with HIV/AIDs from discrimination in the private and public realm.

4.8 Land use and environmental degradation

Conflicts around control and access to land have precipitated massive human rights violations in Kenya. Hundreds of people have been killed, women raped, thousands wounded, many left homeless, and property worth millions of shillings destroyed in politically instigated land clashes. Conflicts among and between pastoral communities are frequent and lead to loss of life and property. In a country whose economy is heavily reliant on agriculture based earnings, inequitable distribution of land has caused and exacerbated poverty.

Lack of security of tenure impacts on the right to housing. In Nairobi and other urban areas, a big proportion of people live in slums where the quality and accessibility of housing is poor. Absence of security of tenure impedes slum-upgrading initiatives.

The state of the environment is directly linked to land. Pressure on land has resulted to deforestation, soil erosion, and water pollution throughout the country. In urban areas, waste disposal is inadequate or non-existent. Poor protection of the environment and inadequate disposal of waste worsens diseases such as cholera and typhoid, which in turn puts pressure on limited health facilities.

In the past, the country's natural resources, including minerals and wildlife, have been exploited without directly benefiting local communities. This infringes the local community's right to access and benefit from local resources.

4.9 Terrorism

The fight against terrorism is a difficult and challenging undertaking. The response by governments is increasingly becoming excessive. Under the banner of fighting terrorism, governments have legislated powers to seize property on mere suspicion, to ban publications, to arrest and detain suspects for long periods without judicial supervision, etc. In short, the response to international terrorism has, unacceptably, been used to justify excessive restrictions on fundamental human rights.

In the present uni-polar world, countries perceived rightly or wrongly to be supporting terrorism face economic sanctions that impact on their economic development. When unilateral use of force is resorted to, human rights violations escalate. While terrorism has to be defeated, it must not be at the cost of human rights.

4.10 Globalisation and international trade

Globalisation has challenges for human rights protection. Globalisation has affected adversely poor countries like Kenya particularly women and other marginalized groups. Unfair international trade practices further discrimination towards poor countries increasing violations of poor people's economic rights. There is urgent need for rights based approach to be factored in trade practices.

5.0 APPROACH AND STRATEGIES

5.1 Overall Approach

The overall approach of the Commission is anchored on a number of premises. First, the full enjoyment and protection of *all* human rights is key to realization of quality citizenship. Human rights are indivisible and interdependent. Kenyans are entitled to enjoyment of not only their economic, social and cultural rights but also their civil and political rights. Second, the Commission is committed to upholding the rights of the most vulnerable in the society such as pastoral communities in the arid and semi-arid parts of the country; ethnic and religious minorities; the poor in urban and rural areas; the physically disabled and mentally challenged; HIV/AIDS infected and affected; youth; and poor women. The Commission is committed to using the social justice approach to promote greater equity amongst Kenyans.

Third, the Commission will build effective value adding partnerships with other government departments, civil society organizations, regional and regional and international governmental and non-governmental organizations. The Commission will strengthen linkages with regional and international human rights groups without becoming hostage to their priorities and agendas. Concerning regional and international inter-state human rights mechanisms, the Commission will become a key and active player. In East Africa, the Commission will work to strengthen human rights protection mechanisms within the East African Community. Within the African Union, the Commission will support the Africa Commission and the African Court on Human and People's Rights. At the United Nations level, the Commission will actively cooperate with the United Nations High Commissioner for Human Rights.

Fourth, the Commission will strive to become a leader and maintain this leadership position in the human rights field. Fifth, the Commission will particularly focus on influencing structures, polices, and institutions to enhance present and future promotion, protection, and enjoyment of human rights. To illustrate, rather than the Commission involving itself in providing human rights education to secondary school students or law enforcement, we will focus on ensuring the full incorporation of human rights into the formal school curriculum and the curriculum of law enforcement training institutions. They Commission will design and implement programmatic interventions that respond to at least one of the following criteria: high impact, high demonstration effect, legacy building, and special edge of Commission.

5.2 Programmatic Strategies

The Commission will employ a number of programmatic strategies to achieve its mandate.

Human Rights Investigations and Redress

The Commission will upon a complaint conduct investigations on human rights investigations. It has the power to summon any person for investigation. Areas of special investigation will include situations of serious and rampant human rights abuse. The methods of investigations will include public hearing, private hearings, consultations, research on law, practices and policies, interviews and documentation. Powers of redress bestowed on the

Commission as a quasi-judicial body include releasing unlawfully detained or restricted person, ordering payment or compensation or any other lawful remedy.

Human Rights Education and Training

The Commission is not an implementing organization in the area of education but has a monitoring function. The Commission together with the various partners will come up with guidelines for human rights education and the Commission will ensure relevant curriculum content in all key partner governmental and non-governmental organizations. The education will be directed at strengthening of respect for human rights and fundamental freedoms as stipulated in international human rights standards. The Commission will monitor the implementation of curriculum by relevant partners while supporting their role of dissemination and educating the public on human rights.

Research, Monitoring and Reporting Compliance

The Commission will commission research on key national human rights issues with a view to making recommendations for policy and legislative reforms and at the same time influencing and shaping discourse.

Advocacy, Campaigns, and Collaboration with Partners

The Commission will use data and information at its disposal for advocacy in influencing key legislation and national policies in human rights. It will also audit government departments for compliance with human rights, and include the findings in its annual status report and occasional white papers. The Commission will enhance government capacity in human rights through occasional trainings. The Commission will work with a wide range of partners to achieve the objectives of its mandate. These will include, government agencies, the civil society, and regional and interregional organizations.

5.3 Non-Programmatic And Cross Cutting Strategies

In addition to the programmatic strategies the Commission will develop the following non-programmatic and crosscutting strategies.

Mainstreaming Gender and Diversity

The Commission is committed to addressing the special needs of women and other marginalized Kenyans in protecting their rights. Working with other relevant governmental and non-governmental partners the Commission will lead the process of reducing and/or removing obstacles that these special groups are facing in full enjoyment of their rights. The strategy will be communicated to relevant organizations and their input asked for.

The Commission will mainstream gender in all policies, programmes, activities and operations. Some specific actions that the Commission will take will include developing a gender policy; training staff and Commissioners in gender analysis; instituting affirmative action to ensure equal representation of women and men at all levels within the organisation, and using gender and diversity sensitive language. The Commission is committed to ensuring that every effort is made for people with special needs to be able to access the range of Commission's services.

Resource Mobilization Strategy

The Commission will lobby to strengthen its financial autonomy through receiving its funding from Consolidated Fund. In addition it will market the Strategic Plan to development partners. Fundraising and management of resources will be guided by the Commission's values of independence, transparency and accountability. The Commission will strengthen its financial systems and practices and develop and market a concept paper on an Endowment Fund.

Managing Strategic Partnership Strategy

The Commission will work with a wide range of partners to achieve the objectives of its mandate. The Commission will work with departments and agencies of government particularly those responsible for justice, prisons, police, and internal security and legislative committees dealing with justice. The Commission will partner with civil society organisations including development NGO's. At the regional, the Commission will build partnerships with similar institutions, the African Union, the East African Parliament, etc.

Communication

The Commission will develop and implement the desired image of an independent, non-partisan professional body to all its important publics. The Commission will develop special programmes to raise awareness on human rights and institute human rights culture among marginalized groups. The Commission will determine information requirements internally and externally; develop internal and external communication channels; and disseminate the communication strategy internally and externally.

Institutional Strengthening

The Commission aims to be the employer of choice. It will become so through open recruitment of professional and support staff, providing competitive remuneration, periodic appraisals, and capacity building through training and retraining. The Commission will also provide opportunities for local and international internships. As a new institution, the Commission will invest in capacity strengthening particularly within the first year. Some specific actions taken will include developing detailed operational plan; developing accountabilities for each proposed position and each Commissioner; developing employee specifications for each position; periodic appraisals of staff; and training programmes.

Results-Based Management (RBM)

Results-Based Management is an approach to improve programme and management effectiveness, efficiency and accountability, and is oriented towards achieving results. The Commission defines a result as a describable or measurable change in state that is derived from a cause and effect relationship. Results-based management is fundamental to the Commission's approach and practice in fulfilling its mandate and effectively. The Commission will systematically focus on results to ensure that financial and human resources are strategically deployed to achieve the greatest impact. Commission will take the lead in ensuring that RBM will guide all staff, bearing in mind the diversity of situations in which its work and the role played by partners in achieving results. The Commission will report on its results in order to inform partners and parliament on progress.

6.0 STRATEGIC OBJECTIVES AND KEY RESULTS

The Commission's approach to its mandate will be practical and results-oriented. It will focus on five strategic objectives. Each strategic objective will be realised by achieving a number of outcomes. The outcomes are in turn driven by outputs. Both the outcomes and outputs constitute key result areas. The Commission will be directly responsible for the achievement of outputs. While it is not directly responsible for the achievement of the outcomes, it is responsible for influencing their achievement.

Since the Commission is the supreme human rights organization, its role is one of overseeing and setting human rights standards, and recommending best practices as opposed to implementing rights program.

6.1 Strategic Objective 1: Reduce Systemic Human Rights Violations

Systemic human rights violations are those that are embedded in legal and administrative systems and practices. They have widespread and arbitrary effect on a large number of people. A situation of reduced human rights violation will manifest itself in the number of people empowered and demanding their rights, and in laws, policies and practices supporting human rights enjoyment.

Key Results Areas

Expected Outcomes

The Commission expects to see:

- Entrenchment of human rights principles in key public documents
- Enhancement of observance of human rights by the state and non-state actors
- Prompt redress of human rights violations
- Implementation of recommendations on improvements in prisons and other places of detention
- Human rights compliant policies and legislation

Expected Outputs

The following several outputs will combine to produce the above outcomes, and these include;

- Establishing an effective and efficient system of processing human rights complaints
- Setting up a functional investigative department
- Setting up effective and efficient human rights monitoring systems

- ❑ Setting up public hearings and inquiries on human rights issues e.g. insecurity, demolition of kiosks, land grabbing, etc
- ❑ Providing redress in situations of violations
- ❑ Initiate and coordinate campaigns on negative ethnicity/tribalism
- ❑ Coordinating partner involvement in targeted campaigns

6.2 Strategic Objective 2: Assume Leadership In Framing And Informing Human Rights Discourse

As the supreme human rights organ of the State, the Commission will be the last word in matters relating to human right. It will guide and inform the government and other rights organizations. It will also offer protections to organizations that deal with human rights, nationally and regionally. In addition, the Commission is persuaded that the skills of citizens to progressively advance their rights lie in their ability to identify new claims, negotiate them, build popular acclaim around such rights and turn them into entitlements they can demand from government, corporate actors and even from other individuals with whom they interact.

Expected Outcome

The Commission expects to:

- ❑ Gain recognition as the national focal point for reliable, current human rights situation about Kenya
- ❑ Emerge as the key human rights agenda-setting institution
- ❑ Emerge as the authority in judging human right violation situations
- ❑ Emerge as the regional leader in human rights matters

Outputs

To do this, the Commission will

- ❑ Establish a functional well-resourced human rights centre
- ❑ Steer development of the National Action Plan on Human Rights
- ❑ Issue authoritative occasional issue based human rights research reports, position papers, and analysis of legislative bills
- ❑ Provide leadership in consensus building on human rights at regional and international levels
- ❑ Hold public debates on human right issues

- ❑ Issue bi-annual human rights journal
- ❑ Establish networks with other human rights bodies in the region
- ❑ Issue annual state of human rights report to Parliament
- ❑ Work towards compliance with reporting, domestication, and other obligations of the Government under international human rights treaties
- ❑ Works towards the establishment of the proposed Truth Justice and Reconciliation Commission, monitor its work, and implement its key recommendations
- ❑ Steer targeted campaigns on human rights
- ❑ Provide timely and quality advice to the Government and other institutions on human rights issues
- ❑ Actively participate in shaping regional and international agendas on human rights

6.3 Strategic Objective 3: Increased Opportunities For Realisation Of Economic And Social Rights

Recognizing poverty as the greatest human rights violation, the Commission will give prominence to programmes aimed at enhancing Kenyans enjoyment of freedom from want and exploitation. The Commission will monitor implementation of Poverty Reduction Strategy Paper (PRSP) and the Economic Recovery Strategy.

Expected Outcomes

The Commission expects to see:

- ❑ Improved livelihoods for vulnerable groups
- ❑ More equitable access to social services by low income groups
- ❑ More legal protection of social-economic rights/basic needs

Expected Outputs

To achieve these results, the Commission will

- ❑ Make policy proposals on improved livelihoods
- ❑ Provide budget variance monitoring (promised and delivered)
- ❑ Monitor the government's implementation of Poverty Reduction Strategy Paper and Economic Recovery Plan
- ❑ Monitor provision of basic needs/basic rights e.g. the right to education, health, access to HIV/AIDS drugs

- ❑ Monitor adherence to labour law standards by corporate entities
- ❑ Monitor corruption levels and practices
- ❑ Provide trends analysis reports on resource allocation and use
- ❑ Develop benchmarks for measuring social-economic performance
- ❑ Hold debates, inquiries, and targeted campaigns on social economic rights issues

6.4 Strategic Objective 4: Establishment Of Comprehensive Human Rights Education System

The Commission will play a facilitative role in training and educating Kenyans on human rights. Of specific interest will be capacity building for different government agencies on human rights work, advocating for the incorporation of human rights education in all public learning and training institutions and as well law enforcement agencies, and providing issue-targeted Information, Education and Communication (IEC) materials.

Expected Outcomes

The Commission expects to see:

- ❑ Adoption of human rights principles and curriculum in learning and training institutions (including law enforcement institutions)
- ❑ More informed citizens taking action in upholding and defending human rights
- ❑ Increased capacity and changed attitudes of public and law enforcement officers in upholding human rights

Expected Outputs

The Commission will work towards the following outputs:

- ❑ Developing national guidelines and curricula for human rights education in key institutions
- ❑ Developing specialised IEC materials on human rights developed and stipulated standards served
- ❑ Undertaking high level human rights training for public and law enforcement officers
- ❑ Identifying, compile, and disseminate best practice approaches n human rights
- ❑ Coordinating special targeted human rights education campaigns

Strategic Objective 5: Institutional Capacity Strengthening To Deliver Effectively And Efficiently On Human Rights Established

To be a high impact organisation, as the Commission is determined to be, it must have the right mix of capacity both human and non-human. The effective delivery of the Commissions remit will to a great extent depend on the organisation we build. Capacity will be seen as more people stand up to claim their rights.

Expected Outcomes

The Commission will be renown for:

- ❑ Mobilisation of adequate resources
- ❑ High level of usage by petitioners/Kenyans
- ❑ A culture of openness, innovation, and adaptability
- ❑ Effective and efficient financial and management systems
- ❑ Accessibility
- ❑ Commitment to stakeholders including government

Expected Outputs

To achieve the results above, the Commission will

- ❑ Develop clear strategic and operational plans around which funding will be sought
- ❑ Develop and adhere to credible financial and procurement systems
- ❑ Recruit and train competent staff
- ❑ Enhance accessibility of the Commission
- ❑ Set up a functional and engendered communication and performance management system
- ❑ Set up an ICT system that optimises the Commission's results

7.0 ASSUMPTIONS, RISKS, AND RISK MANAGEMENT STRATEGY

The Commission holds certain key assumptions while anticipating some key risks.

7.1 Lack of adequate cooperation from Government and its institutions

While the Commission has the power to summon and visit certain institutions while carrying out its duties of monitoring there is no guarantee public officials will recognise and implement decisions of the Commission in its quasi-judicial roles.

To manage this risk, the Commission will ensure participation of government/government institutions in the processes leading to issue of recommendations; where appropriate, name and shame the government departments involved; work with government to incorporate key recommendations into legislation; and robustly apply powers under the Act to ensure compliance e.g. subpoenas, private prosecutions,

7.2 Inadequate funding

The Commission anticipates raising a significant amount of its operational and programmatic budget from the Government. It is conceivable that patently inadequate funding is allocated to the Commission for a variety of reasons e.g. competition from other programmes of the Government or a possible deliberate desire to frustrate its work.

To manage this risk, the Commission will diversify funding sources by also fundraising from other sources and focus on high yielding and low cost initiatives.

7.3 Perception of lack of independence from Government

The Commission is independent from Government. It must demonstrate that this is indeed so. The perception that the Commission is not independent will mean that petitioners and stakeholders lack the necessary confidence in it.

The Commission is committed to robustly assert its independence under the Act, build alliances with stakeholders who can come to its aid when unfairly under siege, and undertake early confidence building activities. At the same time, the Commission will hold ongoing sessions with key government departments to educate them on its role and how it complements other agencies in the overall development process.

8.0 IMPLEMENTATION CHALLENGES

8.1 Resource mobilization

The Commission will draw the bulk of its funding from the government. Supplemental funding is likely to be received from other donations and grants (Part III of the Constitutive Act permits the Commission to receive grants and donations).

The Commission is determined to seek adequate resources for plan implementation . In doing so it shall use its Strategic Plan as the primary fundraising document. To secure the integrity

of the Plan, which will be broken down each year into an Operational Plan. The Commission shall seek to build relations with funding partners that fund its programs as opposed to disparate items in the operational plan.

8.2 Organizational Structure

The Commission's organizational structure will further evolve during this planning phase. The structure will be based on strategic objectives and key result areas. Every Commissioner will have specific accountabilities individually.

The Chairperson will be accountable for the Commission. The Secretary who is also the accounting officer of the Commission will head the Secretariat. The Secretariat will be strengthened significantly in terms of training and additional staff. Overall, Commissioners will deal with policy issues while the day-to-day implementation will be the responsibility of the secretariat.

8.3 Plan Alignment

The Strategic Plan is aligned to a significant extent to the Commission's values, orientation, policies, systems, styles, people and organisational culture. Specific elements that will help or hinder the Commission implement the plan include:

Element	Degree of Alignment
Values	The Commissioners and the Secretary share strongly the core values. They are human rights defenders with outstanding record of results. The plan has therefore a high chance of succeeding provided that core values are also instilled in all staff members. This commitment to human rights principles is a good foundation to ensure that these core values translate into all Commission's policies, systems and practices.
Result Based Management	The Commission has to become a result-based organization. Operational plans based on this Strategic Plan will be result based with clear indicators at all levels. The level of understanding of Result Based Management among the Commissioners and staff however ranges from very high to fairly low. The Commission will have to invest in training and capacity strengthening to facilitate this change.
Policies, systems and practices	The Commission has inadequate policies and systems in place. It will have to invest in reviewing and documenting policies and systems for management of human resources, quality, procurement, communication, finances and administration.
Management and leadership styles	The Commission already practices participatory management style. Many Commissioners come from civil society and have been in the forefront in the struggle for democracy and participation. Clear distinction should however be made between the roles of Commissioners and staff. Leadership style of the Chairperson is visionary.
People	Technical and managerial capacity has to be strengthened for the Commission to take up the challenges. The Commission should invest

Organizational culture in staff training and development and recruit the required additional staff.

The Commission is a newly established organisation and has therefore a privilege of moulding a conducive organisational culture that will facilitate plan implementation. The Commission will put emphasis on teamwork and open communication. Forums for learning will be encouraged. Emphasis will be on results, professionalism and provision of value added service.

9.0 PERFORMANCE MONITORING AND ASSESSMENT

The Commission recognizes that as a key change agent, accounting for results provides an important reference point for others and is determined to provide leadership in this regard especially for governmental bodies. To be a high performance organization will also demand that the Commission puts in place information tracking systems that will support decision-making based on lessons learnt and best practice.

While the Commission recognizes the challenges associated with performance measurement for social programs, it commits itself to building an internal capacity performance management system to demonstrate achievement of results. The Results Based Model will be used to describe the pathways from inputs to impacts.

The Commission will, therefore, develop performance indicators and targets that will be released to the public that will be used to monitor its performance. Likewise, staff and Commissioners will also have definite results accountabilities against which their performance will be evaluated annually. Annual performance and financial reports are key documents in which against which Kenyans will hold the Commission accountable.

Monitoring information and information from the various formative and summative evaluations will be used to inform decision making especially in resource allocation, program redesign, including lobbying and advocacy. This process of will increase organization learning and will enhance efficiency and effectiveness.

