

UNITED NATIONS DEVELOPMENT PROGRAMME
Project of the Government of Kenya
Annual Work Plan

Number:

Title: *"Towards Reform, Accountability and Justice"*
Support to KHRC's Operational and Strategic Plan

Estimated Annualized Budget (in US\$):

Allocated Resources:

UNDP/SIDA:	2009-2010	200,000
Total		<u>200,000</u>

ATLAS Project ID number: 00043058

UNDAF Outcome(s): **Outcome *Strengthened Institutional and legal frameworks and processes that support democratic governance, transformation, accountability, respect for human rights and gender equality***. UNDAF Priority Area 1: Improving Governance and Realization of Human Rights

ACC/UNDP sector & sub-sector: **Democratic Governance**

Implementing agency: **Kenya Human Rights Commission (KHRC)**

Collaborating Parties: **Community based Human Rights Networks (HURINETs, NGOs, KNCHR and other government agencies and departments and International Human Rights Organizations**

Estimated Start Date and Project Duration: **July 1, 2009 – June 2010**

Annual Project Summary – i) CP Outcome, ii) Outputs, iii) Activities, iv) Inputs¹

The long-term **outcome** of this project is to contribute towards *Reform, Accountability and Justice* by consolidating interventions initiated in 2008/9 following the post 2007 election violence. The project will support community based human rights networks (HURINETs) to make linkages between their demands at community level and the various ongoing national reform initiatives brought about by the signing of the National Accord. The project buttresses the overall KHRC strategic plan, whose objectives are as follows: 1) Civic Action for Human Rights; 2) Accountability and human rights centred governance; 3) Leadership in learning and innovation in human rights and democratic development in Kenya; 4) Mainstreaming equality, non discrimination and respect for diversity and 5) Organizational sustainability of KHRC. This Annual Work Plan will be undertaken by the Kenya Human Rights Commission as part of its Operational Plan for April 2009 to March 2010.

Immediate **outputs** envisaged are: (a) Enhanced linkages between community struggles for justice and human rights with ongoing national reform initiatives (b) Improved capacity for formal analysis, documentation and articulation of community issues at national level, (c) Ensuring that the numerous ongoing reform initiatives are monitored, and harmonized / coordinated and lobbying for entrenchment in the National Action Plan (NAP) for the Promotion and Protection of Human Rights.

Primary **activities** include: (a) **Capacity building** through – 1) human rights internships, 2) on

gender mainstreaming – analysis tools, 3) Publication of Rights Based Approach training , Equality & Non-Discrimination Manual for Community Trainers, 4) quarterly reflections (b) **Workshops, Meetings & Public Fora on linking local to national level mechanisms** – 5) Urgent action / Rapid response initiatives, 6) NAP meetings for consolidation of outputs of national reform initiatives, 7) International Networking Meetings on Transitional Justice, 8) Website up grading, 9) Annual Operational planning retreat, 10) Institutional Capacity building through installation of a Human Resource Management Soft ware and 11) Staff development

Inputs required include: a) regular stakeholder meetings, b) radio programmes scripts, c) staff development, d) training workshops, d) consultative exchange and learning visits, e) evaluation, etc.

Approved on behalf of _____ Signature _____ Date _____ Name/Title

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I. Situation Analysis:

1.0 SETTING THE CONTEXT:

1.1 National Context 2009-10: Citizens' Livelihood Options:

The political crisis following the December 2007 elections resulted in the creation of a National Dialogue & Reconciliation Team headed by the former UN Secretary General Kofi Annan. Though triggered by the announcement of the 2007 (presidential) election results, there remains consensus that the underlying cause of the violence in Kenya is largely inequality in the allocation of benefits from available national resources, compounded by corruption; impunity, which have led to inequality. This problem dates as far back as the pre-colonial period when laws on Kenya's main resources were first enacted and in particular when land was first formally adjudicated².

Today, communities that KHRC partners with derive their livelihoods from employment in cash crop farming – sisal (Coast, Rift Valley, Eastern), sugarcane (Western), coffee, tea and dairy (Central, Rift Valley and Western), pyrethrum and flowers (Rift Valley, Central); others from fishing (Nyanza), livestock farming in arid and semi arid areas countrywide and the tourism industry (Coast, Rift Valley, Central and Northern). However, there has been a history of discontent in each of these livelihood options among the majority of citizens.

1.1.1 Labour Market & Trade:

To date, labour disputes make up 30 – 40% of legal advice sought from KHRC and other CSOs with legal aid programmes. There are labour disputes among workers in the hotel industry, in wildlife conservancies, security firms, on plantation farms (sisal, horticulture, tea, coffee) and in the Export Processing Zones (EPZs). The nature of complaints range from injustices such as unsafe working environments, sexual harassment, inadequate provisions for workers welfare needs (education, health, pension, insurance etc), to the fact that unskilled and semi skilled laborers who dominate Kenya's workforce are not paid enough to meet basic needs³ or to sustain themselves a few days after job loss or retirement. While there are new labour laws that seek to address some of the above, the new legislation is still being contested by employers in court and enforcement, of the non contentious aspects is weak, with frequent allegations of complicity of labour officers in the non-compliance.

² The first formal / documented adjudications of land in Kenya date as far back as 1903-4 when the first Native Land Ordinances (with the Maasai community then living around present day Nairobi City) were formulated with limited or un-informed participation of the Kenyan people.

³ Minimum wage in Kenya is Ksh 3,050 per month for agricultural and allied workers, and there are still many who earn less than this

Government's slow response in the recent Kenya-Uganda dispute over Migingo Island is an indication of the challenges faced by Kenya's fisher folk, while the 2008/9 drought and famine has left many livestock farmers destitute. Human-Wildlife conflicts are common in communities living next to game reserves, while there are allegations of unethical and unfair trade made by small scale coffee, tea, pyrethrum, rice, dairy and tobacco farmers among other manifestations of dissatisfaction. With the exception of fishing, small scale farming and pastoralism, most of these industries are owned or controlled mainly by multinational corporations, in which a few highly placed or politically connected locals are shareholders. Many of such companies own sizeable tracts of land and other natural resources in Kenya or have leases for 99 to 999 years.

1.1.2 Land and Subsistence Farming:

With land under plantation agriculture and wildlife being inaccessible to most Kenyans other than through employment, ownership of the land left over for Kenyans to share becomes even more contentious. Majority of those employed are not paid enough to address practical needs (such as food security, water, health care) or in the long term address strategic needs (e.g. education, adequate housing, social security and pension etc) in a manner that transforms; uplifts them from poverty. Inevitably, there is often a compulsion for workers to supplement monthly income by owning a little land for subsistence farming. This means that the employed compete for land ownership, with those involved in full time subsistence crop or livestock farming.

The result is numerous cases of individuals and groups using any means necessary to cut down competition for land. This has bred discrimination which manifests through hiding behind and misinterpreting religion or culture / traditions to exclude women, PLWHAS, persons suffering from mental illness and other marginalized groups from inheriting ancestral land, and conflicts about which ethnic group is or is not indigenous to a certain district and thus should or should not own land there. There are disputes on electoral and district boundaries, particularly in areas where there is land that can still be de-gazetted for agricultural use.

1.1.3 Informal Militias:

Although a National Land Policy has been formulated, it has remained in limbo awaiting Cabinet approval and budgetary allocation for its implementation. For now however, the prevailing situation is that land is still being administered under several pieces of disjointed and sometimes conflicting pieces of legislation. This multiplicity of land legislation has created legal and administrative loopholes that have facilitated land problems such as historical injustices, where communities lost their land as early as before

independence in 1963, land grabbing, as well as corruption (nepotism, cronyism and tribalism) in the acquisition of land.

Substantial portions of land initially registered as government or trust land (including water catchments in forests) have over the years been de-gazetted and to a large extent corruptly allocated with politicians influencing the process to reward their informal militias and supporters. In this way, an impression has gradually been created that irrational support for unscrupulous politicians pays off in the form of land, jobs and other benefits, which are more likely to transform a poor person's life than earnings from working in a labour market that is unfair to unskilled workers. There has also emerged a culture '*alternative taxation*', where the poor, unemployed or underpaid youth illegally 'tax' or forcibly enforce an informal 'welfare' system (*maslahi*); or generally extort those they see as economically better off than them. This takes different forms and names in different places; from the Kisii killing of suspected witches (elderly persons who own land), to pasture conflicts in Laikipia and livestock theft / cattle rustling in Kuria and Isiolo, all perpetuated by informal gangs for hire known by different names - *mungiki*, *sungusungu*, *siafu* etc.

While the Bomas Constitution Draft was quite progressive on land reform, majority of those that own, co-own or benefit from large tracts of land are in Parliament. It is therefore likely that such parliamentarians will politicize constitutional reform on land so that it degenerates into an ethnic issue. It is thus critical that constitutional reform is completed before the end of 2010, as with the elections coming in 2012, citizens' vulnerability to ethno-politicization will rise.

1.2 National Context 2009-10: Status of National Reform Initiatives

1.2.1 Agenda I-IV:

One and a half years after the National Accord and Reconciliation Act (2008), Kenya is yet to recover fully. The agreement brokered by Kofi Anan, resulted in a Grand Coalition government which was to deliver on the accord, now translated into the National Accord and Reconciliation Act (2008). This accord and subsequent Act focused on immediate steps to restore order and longer term (1 year) steps to ensure a similar crisis does not recur. These were listed under four main areas, now commonly referred to as Agenda I-IV:

- i. Cessation of violence;**
- ii. Humanitarian assistance and the restoration of basic human rights;**
- iii. Resolution of the political crisis and**
- iv. Resolution of long term underlying issues**

Although initially intended to only serve long enough to lay the ground work for transition from the 2007 violence, Kenya has since March 2008 had a Grand Coalition government which looks likely to last the five years until elections in 2012. The 'grand coalition' is constantly pre-occupied with wrangling over power sharing, with little effort invested in delivery of its mandate to reunify Kenya and chart a new political direction for entrenchment of democracy and justice.

1.2.2 Reform Commissions that Have Completed their Mandate: - CIPEV, IREC and UN Rapporteur on Extra-Judicial Killings

Two Commissions of Inquiry were set up as part of the national accord, namely the **Independent Review Commission (IREC)** and the **Commission of Inquiry on Post-Election Violence (CIPEV)**. The two commissions completed and officially presented their findings, which were tabled in parliament in late 2008. Of the IREC, parliament voted to disband the Electoral Commission of Kenya (ECK) and set up an Interim Independent Electoral Commission (IIEC) that would reform the electoral process. The disbanding of ECK was seen by many as just, despite questions on implications on rule of law stemming from the fact that there was no constitutional amendment to facilitate ECK's disbanding. While the IREC report made very clear recommendations on how Kenya's Electoral system should be overhauled, the IIEC's first task is to conduct two by-elections; in Bomachage and Shinyalu constituencies on August 27, 2009. Hopefully, conducting these by-elections will give the IIEC a chance to effect and pre-test or pilot IREC's recommendations. However, many fear that the IIEC may get too busy with the by-elections with IREC recommendations gradually taking a back seat.

Of the CIPEV, the main recommendation was that either a local tribunal be set up to try the perpetrators of the post-election violence or that they be handed over to the ICC. By March 2009, no decisive action had been taken as parliament earlier in the year voted against the setting up a local tribunal. Kofi Annan has now revived this debate by extending the deadline to August 2009. While the CIPEV report had heavy focus on security, the Police have gone on with business as usual. In June 2009, government (Minister for Justice and Constitutional Affairs and Minister for Internal Security) conceded that the verdict of culpability passed by the **UN Rapporteur on Extra-judicial Killings**, Professor Phillip Alston, was an accurate representation of the reality in Kenya, but there is reluctance to fast track security sector reforms or find constitutional means to replace the Attorney General, who has been seen as a stumbling block to reforms in the administration of justice.

1.2.3 Constitutional Reform:

For close to two decades now, the people of Kenya have been agitating for a complete overhaul of the Constitution of Kenya. Despite several efforts towards the review process, a new constitution is yet to be realized. In early 2008, following the post election violence, the team of mediators⁴ who negotiated the National Accord, meeting under the chairmanship of Nigerian diplomat Oluyemi Adeniji proposed a Committee of Experts on Constitutional Review (CECR) be appointed to deliver a new constitution within the twelve months from the commencement of the Act.

The plan was that, issues on which the PNU and ODM coalition agreed would be put to the vote in one referendum for adoption or rejection by the people. While issues on which ODM and PNU did not agree would be presented to the voters separately, with the two positions spelt out for the voters to decide which side wins. The side with the highest number of votes would be deemed to have won the day. The issues which were listed as contentious include whether Kenya should be a presidential or parliamentary democracy with a Prime Minister with overall executive authority, devolution of power, land and affirmative action to uplift marginalized regions.

There is now in place a CECR, amid reports of it lacking office equipment, a specific budget of its own and members not being paid on time. The CECR comes at a time of heightened disunity within the grand coalition government, which appears to be compelling the CECR to abandon the above plan of consolidating list of agreed and contentious issues from a literature review. CECR has instead opted to get citizens' views on what are the contentious issues. It is doubtful they will meet the March 2010 deadline, after which, the agenda will shift to campaigning for the 2012 elections.

1.2.4 Reform Commissions Yet to Complete their Mandate:

The Committee of Experts on Constitutional Reform (CESR) is not the only commission in place in Kenya today. Other commissions working against an almost similar March 2010 deadline to deliver reforms are the **Interim Independent Electoral Commission (IIEC)**, the **Interim Independent Boundary Review Commission (IIBR)**, the **Truth Justice and Reconciliation Commission (TJRC)**, the **National Cohesion and Integration Commission (NCIC)** and the **Interim Alternative Dispute Resolutions Tribunal (IADRT)** whose mandate is to resolve issues on constitutional reform.

All of the above commissions have mandates that touch on one another, yet all have almost similar life spans of 12-18 months. For example, in the new constitution there ideally should be a chapter on

⁴ Members of the team are Deputy PM Musalia Mudavadi, Cabinet ministers Martha Karua, Mutula Kilonzo, Moses Wetang'ula, William Ruto and James Orengo.

boundaries (administrative and electoral) and the devolution of power based on them. The IIBR is mandated to establish, review and draw new administrative and constituency boundaries, which would also be covered by the CECR.

According to the Law Society of Kenya "There needs to be a framework where the IIBR reports to the Committee of Experts on Constitutional Review for harmony. The IIBR cannot work under the existing Constitution, which would be revoked once a new one comes into operation," Ideally, the national census slated for August 24-25, 2009 should precede the review of boundaries. While, the IIEC is expected to register voters in preparation for the 2012 General Election, it has also to harmonize with the IIBR and the CECR. The work of the National Cohesion and Integration Commission, which is to fight against tribal and racial discrimination, may overlap with the TJRC. The TJRC's mandate is to assess past human rights abuses and other historical injustices. Both NCIC and the TJRC criminalize ethnic discrimination and would be related to the yet to be established local tribunal to try the architects of post-election violence, as recommended by CIPEV, commonly known as the Waki Report.

Clearly, there is need to harmonize the work of the above commissions. However, there is no body charged with co-ordination of all of the above commissions' work to ensure they all deliver without conflict and based on the same underlying principles of transition and transformation from a past of frequent conflict.

1.2.5 Corruption:

Despite the post 2007 election violence being caused by the inequality that results from corruption mainly among government operatives, numerous mega corruption scandals have still dominated 2008/9. The sale under dubious circumstances of the Grand Regency, a hotel under receivership culminated in the belated resignation of the Minister for Finance after a vote of no confidence was passed against him in Parliament. This minister has since been "cleared" and reinstated to the Cabinet by a Commission of Inquiry contrary to recommendations by the Parliamentary Committee on Public Investments. His wife is adversely mentioned in a 'pyramid' scheme scandal, in which thousands middle class citizens were defrauded of their lifetime savings. The only remedy so far offered was in the June 2009 budget speech, where the new Minister for Finance has now "banned" pyramid schemes. No mention of legal action on the perpetrators was mentioned.

The Ministry of Agriculture has been in focus for reported disappearance of maize stocks and perpetration of a national food shortage. The Minister in charge has held to his position and survived a no-confidence

motion largely because of political reasons. In the Ministry of Energy acts of fraud and manipulation are responsible for frequent fuel shortages. The Ministry for Internal Security was ranked as the best performing public institution in 2008, in total disregard for the findings of the CIPEV report on conduct of security forces during the 2007 post election violence.

1.2.6 Decentralized Funds: Opportunities for Corruption at Community Level

At community level, the potential for corruption is increased by the multiplicity of decentralized funds at Ward, Constituency and District level. While communities are held captive by the above mega-graft national scandals, attention must not divert from the huge amounts of money available at community level, which provide equally large opportunities for graft. In Kenya today, there are over ten public funds⁵ available at Ward, Constituency and District level. This in itself is the very first challenge posed by decentralization of services to local level; the multiplicity of funds and duplicity of implementation jurisdictions.

Individual citizens who need to access services and community based civil society groups interested in monitoring the same are easily deterred by the overlaps between administrative boundaries (Districts, Divisions, Locations, and sub locations) and electoral boundaries (Constituencies and Wards). There are also overlaps in management of the different funds that fall in the two jurisdictions, creating a labyrinth of management patterns and authorities, which have proved difficult to understand let alone monitor. The 2009/10 budget proposes to increase Constituency Development Fund (CDF), to each constituency to over Ksh 100M per year.

Although decentralization is welcome as a means of re-distributing national resources, with the grand coalition, which means no opposition, Members of Parliament (MPs), councillors and other duty bearers are pre-occupied with self enrichment before the 2012 general elections. Most seem to take little or no interest in their responsibility of not only government monitoring at national level but also delivering development through public funds at local level.

What is emerging is a growing resentment against and mistrust of the political class. A mid March 2009 opinion polls by Transparency International, for instance, listed Parliament as the biggest obstacle to the fight against corruption with the Executive following in tow for not using its power and authority to

⁵ *"The Guide to Community Participation"* by Kituo cha Sheria identifies 13 decentralized funds:-Local Authority Transfer Fund (LATF), Constituency Development Fund (CDF), Constituency Bursary Fund, Constituency Roads Fund, Constituency HIV-IDS Fund, Rural Electrification Fund, Free Primary Education, Youth Enterprise Development Fund, Women Enterprise Fund, Free secondary Education Fund, Water Services Trust Fund, National Fund for Persons with Disability and Poverty Eradication.

address the vice. Despite the rhetoric against it, there is no evidence that any reasonable gains are being made against the vice.

II. PROJECT IMPLEMENTATION STRATEGIES

2.0 APPROACH:

2.1 Problem Statement

Unless there is implementation Agenda I-IV as agreed under the 2008 National Accord, the violence that rocks Kenya at every election (2007, 2002, 1997, and 1992) will happen again even before 2012, this time at a much bigger magnitude than the Dec 07 – Feb 08 violence. The thirty one people who died in the Mungiki-Vigilante conflict in Nyeri in April 09, the over twenty who have died in the cattle-rustling / clan conflict in Kuria between April and June 09, and over twenty deaths (including police officers) in Isiolo in June 2009 are indications of this.

In KHRC's assessment, the reasons why Agenda I-IV and all other reform initiatives are either stuck or moving too slowly to save the situation stem from:-

1. **Capability:** Is government either able to effect all the necessary reforms: i.e. either identify which ones must take priority and fast track these or put in place a system to harmonize the various initiatives? With the ongoing wrangles in the grand coalition and budgetary implication of reform, capability here is in doubt.
2. **Responsiveness:-** Leaders who are beneficiaries of the status quo and stand to lose (land, money, political influence etc) from effecting the proposed national reforms for real transformation will at best remain unresponsive until they amass enough wealth to buy the 2012 elections. At worst, they will work against the reforms by polarizing communities on each of the reform issues and spark ethnic tensions that will justify chaos and dictatorial measures to enrich them further.
3. **Accountability:** - As long as grassroots organizations have limited capability to understand, organize, articulate or confront the real causes of the poverty, unemployment, stiff competition for resources and corruption, they will remain susceptible to manipulation thereby losing their capacity to duly hold government accountable for their impoverisation.
4. **Disconnect:-** Between reform initiatives at national level and the livelihood and other realities at community level;

2.2 KHRC's Intervention Strategy

KHRC's strategic plan focuses on strengthening grassroots organizations into powerful advocacy movements. Under Vision 2012, KHRC has been and will continue to partner with community based human rights networks (HURINETs) to advance their struggles for justice, by focusing on :-

1. **Addressing Poverty & Related Human Rights Violations including Conflict:** - through rights awareness and advocacy for increased community access to all the factors of production (land, labour, capital, markets / trade) e.g. advocacy for better terms of employment, advocacy for land reform and the practice of equality and non-discrimination at all levels of society , government monitoring at community level to ensure proper use of decentralized funds to deliver rights that stand to contribute towards poverty alleviation (such as the right to security, right to education and protection from child labour) etc
2. **Participation, Capacity Building & Linkages:** Ensuring that community struggles are not only vibrant at village level but are also linked and articulated at national (legal, institutional and constitutional reform) and international level (e.g. through better understanding and engagement with international trade agreements affecting farmers, international instruments on Civil and Political Rights, Economic Social and Cultural Rights including the more recent (2003) United Nations Convention against Corruption - UNCAC).

2.3. Proposed Activities - 2009/10:

In 2007, KHRC in partnership with community based human rights networks (HURINETs), undertook the *Peoples' Manifesto and Scorecard Initiative*, a project which mobilized communities in 54 of Kenya's 210 constituencies to document their development priorities/ needs /demands on simple Kiswahili language documents called 'Peoples' Manifestos' for each of the 54 constituencies, where KHRC works. On analyzing the demands communities prioritized, it was found that these can be classified into three categories; those that can be implemented through i) proper use of the 13 **public funds now decentralized to constituency or district level**, ii) historical injustices to be channeled through a **Truth Justice & Reconciliation Commission** or related mechanisms and iii) through **constitutional reform**.

These manifestos were used to engage and commit aspirants at the 2007 general elections to use their position as law makers to deliver within the 5year term 2008 – 2012, on all the three categories of demands. KHRC from the onset saw its work on Peoples' Manifesto and Scorecard Initiatives as a five year programme to run between 2008 to 2012. The demands made by communities before the 2007 general elections remain relevant and unresolved to date. Many of these demands; - inequalities resulting from historical injustices, impunity aggravated by a weak constitution and corruption both at national level and on public funds at constituency level were actually listed again in 2008 as the underlying causes of the violence.

Through this partnership with UNDP/SIDA, KHRC proposes to advance this work as well as respond to the earlier outlined national context in 2009/10 through three key strategies listed below:-

1. **Capacity Building**
2. **Linking Community struggles with National & International Level Advocacy**
3. **Institutional Capacity building**

Initiatives under these three key strategies are briefly expounded on below, while the specific activities are listed within the attached Annual Work Plan Matrix (AWP).

2.3 Capacity Building – Internships, RBA, Gender Mainstreaming & Quarterly Reflections

2.3.1 Human Rights Internships

KHRC believes and has established a culture of mentoring young professionals into human rights work. This is based on the realization that human rights cut across all professions and sectors. KHRC has further realized that, there is limited theoretical coverage and almost no practical human rights learning in almost all the curricula in Kenya's tertiary learning institutions. Each year, KHRC has two intakes of 6-8 interns from diverse academic backgrounds.

In view of the huge amount of work that the numerous commissions described above will bring, KHRC will in 2009/10 retain a total of 16 interns, eight in the first six months and another eight in the next six months. Interns will receive a transport and meals allowance, as well as other administrative support. They will be involved in all the trainings that will take place in the year, for purposes of building their skills in monitoring and analyzing how KHRC is can make timely interventions with the various reform commissions to articulate community issues.

2.3.2 Rights Based Approach (RBA) Manual for Community based human rights workers

Following the 2007/8 post election crisis, KHRC supported HURINETs to review the 54 constituency manifestos to ensure that the underlying causes of the 07/08 conflict were well captured in each constituency manifesto. What emerged from this reviews was the need for capacity building on how to relate inequalities and marginalization in development (access to water, roads etc) to the rights discourse. KHRC in 2008/9 undertook two trainings on Equality/ Non-Discrimination & RBA, and the second training on Gender in Transitional Justice. Draft training manuals were developed to help HURINETs conduct the same training / discussion at community level. In using these drafts to engage communities on non-discrimination and use of RBA, HURINETs have actually pre-tested chapters of the draft manual.

In the 2009/10 period KHRC will finalize this process by consolidating, editing, validating and publishing the final version of the “*RBA, Equality / Non-Discrimination Manual for Community Based Human Rights Workers.*”

2.3.3 Gender Mainstreaming in Constitution and other Reform Initiatives (SO4)

Although certain gains have been made, Kenya still lags behind its East African counterparts on actual entrenchment of gender neutral and sensitive policy and practice. While, women’s rights organizations have done well in spearheading gender advocacy, KHRC still has a large part to play in this as most of the community demands expressed in the *Peoples’ Manifesto and Scorecard Initiative* confirm that there are still huge gender disparities in access to human rights at community level.

In KHRC’s assessment, there is a great deal of gender awareness at community level. However, this needs to be up-scaled to the next level of delivering tangible gains by providing practical skills to move the debate from awareness to action at community level. In undertaking gender work, KHRC will be supporting communities to respond to real challenges they identified, key among them being the lack of a trickle down to community level of the gains made at national level.

KHRC will conduct the second phase of staff and HURINET capacity building on Gender Mainstreaming in Constitution and other reform initiatives. The focus will be on giving a practical approach to gender analysis and its tools and looking at the various mainstreaming approaches that communities could lobby for as they articulate community demands in the constituency manifestos to the various ongoing national reform initiatives – mainly the **Interim Independent Boundary Review Commission (IIBR)**, **The Truth Justice and Reconciliation Commission (TJRC)**, and the **National Cohesion and Integration Commission (NCIC)**.

2.3.4 Quarterly Reflection on Developments & Current Affairs Relating to Human Rights & Reform

KHRC has an established culture of undertaking quarterly reflections. These are opportunities for staff, community representatives and friends from CSO and other sectors came together every three months to:-

- Reflect on strategies of human rights education and advocacy implemented and progress made on these.

- Refresh with new information or developments on an issue
- Where necessary, salvage processes through mid-year change or refinement of strategy

In this period, KHRC will undertake four quarterly reflections, which are all the more necessary this year considering the many ongoing reform initiatives, all of which KHRC and other CSOs must remain constantly abreast with.

2.4 Linking Community with National & International Level Advocacy

2.4.1 Urgent Action/ Rapid Response

As early as September 2007, communities KHRC works with had identified security concerns as they put together their demands through the Peoples' Manifesto and Scorecard Initiative. In Rift Valley for example, where KHRC works with eight constituencies⁶ all the constituency manifestos began with demands for security prior and before the election. Within the Mizizi ya Haki, a Community Newsletter, published by KHRC, the Migori, Kuria and Isiolo HURINETs had clearly articulated their security concerns.

However, duty bearers were not as responsive as they should have been. Consequently, The South Nyanza region witnessed high levels of election and post election violence and evictions and to date, conflict are rife in Kuria and Isiolo, while Rift Valley endured the highest levels of post poll violence. This was not because HURINETs in that area had not sounded an alarm, but because, of the inability to get responses of sustainable solutions not only from local level duty bearers but also from policy reforms at national level. For as long as security sector and other reform initiatives have not been institutionalized both at national and district level, it is highly likely that incidences of conflict will keep arising. When this happens' communities, whose voices are often ignored by state apparatus and sometimes the media too, will require KHRC's solidarity and support in highlighting the issue at national level to demand prompt action.

In 2009/10, KHRC will build HURINET capacity to undertake rapid response, through evidence based activist research, that produces facts /information, not only useful in getting prompt temporary solutions at district level, but can also be used to put pressure on national security sector reforms. The urgent action / rapid response will enable KHRC staff and community based HURINET members to quickly travel and gather facts and use these to alleviate the destruction and pain caused by slow response to incidences of conflict.

⁶ Narok North and South, Baringo East, Central, and North, Marakwet East and west and Laikipia East constituencies,

2.4.2 National Policy and Action Plan (NAP) for the Promotion and Protection of Human Rights in Kenya.

Given that most human rights violations are perpetuated by states against their own citizens, improvement in practice must come principally at the national level. The National Action Plan (NAP) was first mooted in June 1993 at The World Conference on Human Rights in Vienna, where it was recommended *“that each state consider the desirability of drawing up a national action plan for identifying steps through which that state would improve the promotion and protection of human rights.”*

In Kenya, the process began in June 2001, at a UNDP funded workshop that brought together civil society organizations (human rights organizations, media, and faith based organizations), private sector and government to deliberate on how to establish a national framework for protecting and promoting human rights in Kenya. This process did not move as expected until it was incorporated in the Governance Justice Law and Order Sector (GJLOS) Reforms in 2004.

With the numerous reform initiatives following the 2007/8 post election violence, the NAP process would be incomplete without **ensuring that all the reforms** being proposed and effected **advance and are in line with NAP**. As mentioned elsewhere in this document, **no particular body has been tasked with this harmonization role, thus the risk that various commissions will produce at best uncoordinated and at worst conflicting recommendations**. In the absence of a coordination and harmonization focal point for all the ongoing national reforms, the NAP provides a forum for this harmonization. As characteristically government pays greatest attention to commitments captured in its own policy frameworks, documents and timeframes, harmonizing and capturing all these recommendations in NAP will be a useful **milestone in getting Kenya to finally institutionalize human rights**.

In 2009/10, KHRC will influence decisions of the NAP 15 member committee to take on the role of monitoring, harmonization and translation into community friendly language, the goal, expected outputs of all the on going national reform initiatives. This way, the reform recommendations made by the various commissions, most of which have a maximum lifespan of 2years, will have been institutionalized in the National Policy and Action Plan for Promotion and Protection of Human Rights in Kenya. There will also be a need to pay premium on adoption and implementation once the policy is in place. KHRC will continue to participate in the NAP meetings but also undertake five regional workshops on NAP to train ToTs on a harmonized yet simplified reform package which community ToTs can then create community awareness and formulate advocacy positions on.

2.4.3 International Networking on Governance

Despite the huge expectations of the 2002 and 2007 general elections, Kenya remains stuck in *transition without transformation*. There is a real risk of this adage being true as it is possible to go through all the motions of transition – numerous and costly reform initiatives, but have no real transformation to show for it. In this regard, KHRC will consciously take advantage of available opportunities to learn from cases studies on transitional justice processes from countries that have succeeded or failed in this process, to know the possible pitfalls. Should such opportunities arise, KHRC proposes to be in a position to take advantage of them.

2.4.4 Website Upgrading & Social networking on human rights

KHRC will be upgrading its website to make it more interactive, and responsive to the frequent updates of information that will undoubtedly be required this year. The website provides an opportunity for the 21 community based human rights networks (HURINETs) to keep updated and access information and IEC materials on the ongoing fast paced (frequently changing) status of national reforms. This way it will not be necessary for KHRC to organize community training workshops each time a change is made on the reform documents, as HURINET leaders will be able to travel to the nearest town and download this information for transmission through ToTs.

The web site also provides an opportunity to briefly profile these 21 HURINETs thereby exposing them to potential partnership with other human rights advocates including funding partners, who are better placed to support community struggles financially, while KHRC continues its programmatic partnership with HURINETs.

2.4.5 Annual Operational Planning Retreat:

To ensure that gains made in one year are consolidated through activities planned in the next year, KHRC brings together its partners for annual community reflections at regional level in January of each year. At these reflections community based human rights networks (HURINETs) are able to evaluate the interventions both they and KHRC have made in terms of how far they have advanced community struggles and delivered on expected outputs. During these regional reflections, HURINETs also develop action plans on areas that they would want to partner with KHRC. The regional reflections form the basis of KHRC's annual operational planning.

KHRC will undertake its annual operational planning in February 2010, a forum that will bring together all its staff and interns to consolidate the outputs of the regional community reflection sessions into an Operation plan for the coming year.

2.5 Institutional Capacity Building:

2.5.1 Human Resource Management – Software and Staff Development:

KHRC prides itself in having a competent staff that delivers on agreed outputs and goals. This has been achieved through investing in staff capacity building as well as keeping up to date on developments in human resources and best practices in institutional management.

In 2009/10, KHRC will support staff through both short and long term courses identified through annual staff performance reviews (appraisals). KHRC will also purchase, install, train and begin utilization of more advanced human resource management software. The staff to be trained with the contribution from UNDP/SIDA are the Human resource officer on the new HR software to be installed, All staff on Monitoring and evaluation and Management information system, and gender mainstreaming reporting tools.

III. MANAGEMENT ARRANGEMENTS

The outcome of this annual work plan is one of the outputs of the country programme action plan for the years 2004 – 2008.

Revisions may be made to this annual work plan with the signature of the UNDP Resident Representative only in the event that he or she is assured the other signatory of the annual work plan has no objection to the proposed changes, and the revisions do not involve significant changes in the immediate objectives, output or activities of the annual work plan, but are caused by the rearrangement of inputs already agreed to or by reasonable cost variations.

A. FINANCIAL MANAGEMENT AND REPORTING

1. Financial Accountability

The implementing partner (KHRC) shall be responsible for ensuring that the allocated resources for the annual work plan are utilized effectively in funding the envisaged activities. It will also maintain records and controls for the purpose of ensuring the accuracy and reliability of the annual work plan's financial information. The accounting system in place shall ensure that such disbursements are within the approved budgets. The accounting system shall track the advances received and disbursed besides capturing expenditure records through direct payments made by UNDP on behalf of the implementing partner. All other funds will be disbursed to the Implementing partner through the advance of funds modality, unless UNDP determines otherwise. Disbursements shall be effected through EFT to the account of KHRC provided for that purpose. The implementing partner shall be responsible for ensuring that monthly bank reconciliation statements are prepared for auditing purposes.

2. Advance of Funds

UNDP Kenya country office shall disburse funds to the Implementing partner on the basis of: 1) technical and financial reports presented to the group of core donors twice a year (in April and October), and 2) a request for advances of funds, enclosing the technical and financial reports as specified above, addressed to UNDP Kenya and signed by officers who are authorized in writing to do so by the respective accounting officers and shall specify the amounts of funds required for the period in the prescribed form.

3. Financial and Technical Reporting

The Implementing partner must submit the core donor financial and technical reports to UNDP Kenya country office no later than 15 days after the end of the six month period. The financial report must be in accordance with the agreed core donor format. The submission of the technical and financial reports is mandatory.

4. Fiduciary Compliance

In managing the annual work plan resources, the implementing agencies have fiduciary and compliance responsibilities to the funding institutions. They also have compliance responsibility for funding institutions' reporting procedures. Thus an audit of this annual work plan must fulfill the following set of objectives:

- ii) Disbursements are made in accordance with the annual work plan;
- iii) Disbursements are valid and supported by adequate documentation;
- iv) An appropriate and reliable system for internal control is maintained by the implementing partner;
- v) Annual work plan technical and financial reports are fair and accurately presented;
- vi) Annual work plan monitoring and evaluations are prepared as required; and
- vii) Annual work plan disbursements are duly verified and replenishments are duly authorized by the implementing partner on a bi-annual basis.

Within two months of the completion of the annual work plan or of the termination of the present agreement, the implementing partner shall submit a final report on the annual work plan activities as per core donor reporting formats and include a final financial report, clearly indicating the activities supported by the funds granted under this agreement. An inventory of supplies and equipment, if relevant, must also be submitted.

5. The Audit Requirements

All nationally executed annual work plans may be audited once in their lifetime. The objective of the audit is to provide the UNDP administrator with the assurance that UNDP resources are being managed in accordance with:

- a) the financial regulations, rules, practices and procedures for the annual work plan or project;
- b) the annual work plan activities, management and implementation arrangements, monitoring evaluation and reporting provisions ; and
- c) The requirements for implementation in the areas of management, administration and finance.

The UNDP may audit non-United Nations implementing partner annual work plans by sub-contracting private auditors to carry out the audit exercise. Funds for audit expenses will be budgeted within the annual work plan. In the event of such an audit, the implementing partner will ensure that auditors are given all records and information that they will need to perform a meaningful performance audit. The implementing partner will ensure that final accounts of the year under audit are submitted to UNDP. It is the responsibility of the implementing partner to ensure that all audit observations are attended adequately.

6. Procurement of Goods and Services

UNDP's established rules and procedures governing procurement shall be followed.

B. IMPLEMENTATION

It is envisaged that all activities in pursuance of this Annual Work Plan shall pay homage to the following imperatives:

1. That gender considerations are mainstreamed in all activities.
2. That HIV/AIDS consideration is mainstreamed in planning and implementation where relevant.
3. That a right based approach is used in planning and implementation.
4. That information is openly shared among all stakeholders in the different related projects.
5. That effort is made to find ways of ensuring sustainability of planned activities.
6. That close and fruitful dialogue is maintained between UNDP and the implementing partner regarding capacity development needs and other issues that come up during preparation, implementation and follow-up of the programme.

C. MONITORING AND EVALUATION

The KHRC has a monitoring system for all its projects and programmes. At the beginning of every Operational Year (April), the KHRC develops an Operational Plan. Similar to other years, this Plan is based on clear outputs, outcomes, success indicators and means of verification for every project. Before implementation of this Plan, all Programme Officers (led by the Programmes Coordinator) developed programme plans that show Key Result Areas (KRAs) and individual Performance Objectives vis-à-vis the Plan. This Project will be implemented within this framework. It is hoped, in addition, that in this year, the Monitoring and Evaluation (M&E) system was reviewed, based on emerging best practices.

Tracking Results

To begin with tracking of results shall be done using the following forums: Team Meetings, Monthly Programme Meetings and Quarterly Reflections.

(i) Team Meetings

Under the leadership of the two team leaders (Senior Programmes Officers), the teams will meet regularly. It is at this level that issues and the concept papers for the various activities shall be adopted and timeliness, effectiveness and efficiency of interventions examined. These meetings will also be used to ensure intra-team consultations and congruency. The Programmes Coordinator and the Senior Programme Officers will endeavour to guide the teams in ensuring that they are functional, self driven and effective.

(ii) Programmes Meetings

The Programmes Meetings will offer opportunity to review and guide major organizational interventions. Further, relying on this Plan, the meetings will track down implementation rates for various interventions. These meetings will also be used to provide strategic direction plans and programmes, strategies and methodologies, and isolate areas which need improvement, or which are successful and need to be built on, or replicated. The meetings will also help to hold individuals and groups accountable, and point to organizational weaknesses which require remedy. Finally, the Programmes Meetings will be the venues for ensuring inter-departmental linkages.

(iii) Quarterly Reflections

This year, Quarterly Reflections shall be moments dedicated to intellectual interaction and broadening knowledge of human rights theory and practice. The sessions will be “critical thinking” sessions, based on the principle of praxis (action and reflection). Priority will be given to practical and theoretical issues that need further reflection and research. The KHRC shall work with the KHRI in developing these areas.

Monitoring and Evaluation Methods

The KHRC has embarked on developing a functional monitoring and evaluation system, which is based on traditional and modern methods. This system will consist of a combination of those methods, but will widely rely on three key ones: Results-based Monitoring (RBM); Most Significant Change (MSC) and Accountability, Learning and Planning System (ALPS).

For RBM, KHRC has relied on drafting KRAs for both individuals and staff committees. These were completed at the Operational Planning process and will be utilized by the respective supervisors and/or conveners of committees to track results.

Using the MSC system, we shall seek to document 'stories of change', with a view to showing the change that we bring to those we work with, or the environment we work in. This method has been accepted by some of our Partners and hence, all reports (be they Annual Reports or Progress Reports) will have a section that documents the 'stories of change'.

Finally, through ALPS, we shall seek to utilize the Quarterly Reflections (including community-based reflections) to learn about emerging issues in the human rights sector so that we can be able to re-orient our programmes to ensure maximum impact of our work and that we are also accountable to the communities (be they geographic or thematic) we work with.

D. LEGAL CONTEXT

The country programme action plan shall be the instrument referred to as such in Article 1 of the Standard Basic Assistance Agreement between the Government of Kenya and the United Nations Development Programme, signed by the parties on 17 January 1991.

E. Publicity and Publications

Unless UNDP requests or agrees otherwise, the implementing partners and collaborating parties shall take all appropriate measures to publicise the support by SIDA and UNDP for the Project. Information given to the press and project beneficiaries, all related publicity materials, and all official notices, reports and publications, shall acknowledge that the activity was carried out with support from SIDA and UNDP, and shall display in an acceptable way the SIDA and UNDP logo. In addition, all publications must be reviewed by UNDP before publication, and shall bear the appropriate UNDP disclaimer.

F. WORK-PLAN AND BUDGET

The year work-plan is detailed in the Annual Work Matrix overleaf.

Annual Work Matrix – Fiscal Year July 2009 – June 2010
 ATLAS Project Number:

Project Title: TOWARDS REFORM, ACCOUNTABILITY AND JUSTICE

Expected Outputs	Key Activities/Annual Output Targets ⁷	Success Indicators	Monitoring Actions	Q				Collaborating Party	SIDA Funds Kshs	SIDA Funds USD	Budget Descriptions
				1	2	3	4				
a) CAPACITY BUILDING – RBA, GENDER MAINSTREAMING & QUARTERLY REFLECTIONS											
1. Recruitment & Maintenance of Human rights Interns											
a. Expanded constituency of human rights workers	<ul style="list-style-type: none"> Recruit and maintain interns. Hold alumni forum 	<ul style="list-style-type: none"> Number of interns recruited, maintained and disaggregated by gender Alumni data base 	<ul style="list-style-type: none"> Alumni Forum report. List of Alumni Exit reports generated by interns 					<ul style="list-style-type: none"> KHRC's Internship committee Former interns 	2,798,636	37,315	<ul style="list-style-type: none"> Interns Stipends Community intern accommodation and travel costs Project personnel costs Alumni Forum costs Refreshments and writing materials)
1. Interns stipend 9 interns @ Kshs 15,000 per month = 1,620,000 2. Accommodation for community interns – 2 interns x 6 trips x 6 days x 5,000 = 360,000 3. Transport for community interns – 2 interns x 6 trips x Kshs 3,000 = 36,000 4. Evaluation sessions and recruitment – 2 sessions @ Kshs 10,000 = 20,000 5. Contribution to Project personnel costs responsible for the internship project – Kshs 762,636											

2. Gender Mainstreaming for Engagement with Legal, Policy, Constitutional and other Reform Initiatives							
a. Improved ability of staff and communities to utilize gender analysis Mainstreaming approaches to address human rights issues	<ul style="list-style-type: none"> • Training of Staff & Community Networks on gender analysis Mainstreaming approaches. 	<ul style="list-style-type: none"> • Better conceptualization and implementation of programmes and projects that are engendered. 	<ul style="list-style-type: none"> • Training reports • List of staff members and community network members trained. 	<ul style="list-style-type: none"> • Community based human rights networks (HURINETs) • KHRC staff • Consultants 	2,125,310	28,337	<ul style="list-style-type: none"> • Travel, • Accommodation and meals • Consultant fees • Project personnel costs • Workshop materials
3. Development of Rights Based Approach, Equality & Non-Discrimination Training Manual							
a. Increased capacity of HURINETs & other community human rights workers to sensitize others	<ul style="list-style-type: none"> • Pre-test feedback session • Validation workshop • Editing & printing • Launch & dissemination 	<ul style="list-style-type: none"> • No. of regions involved in pre-test feedback • No. of copies of manual printed and distributed. • Relevance & utility of manual 	<ul style="list-style-type: none"> • Activity progress report • Consultant's contract and ToRs • Copies of manual • Regional reports on feedback from manual users 	<ul style="list-style-type: none"> • Community based Human Rights Networks (HURINETs) • Others CSOs in HR sector • Consultants • Publishers 	1.120,057	14,934	<ul style="list-style-type: none"> • Refreshments, travel costs, accommodation, communication, Project staff personnel costs. • Printing costs • Postage costs
b. Action oriented rights advocacy							
4. Quarterly Reflection on Developments & Current Affairs Relating to Human Rights & Reform							
a. Lessons documented every quarter	<ul style="list-style-type: none"> • Identification of discussion topic • Quarterly reflection meetings 	<ul style="list-style-type: none"> • Improved conceptualization of projects • Timely review and relevant engagement with ongoing policy making & reform processes 	<ul style="list-style-type: none"> • No. and regularity of meetings. • Comprehensiveness of concept papers • Improved implementation 	<ul style="list-style-type: none"> • KHRC staff • HURINET reps • Consultants • CSOs • Govt Depts 	289,880	3,865	<ul style="list-style-type: none"> • Travel, • Accommodation • Meals and Facilitation • Stationery
a. Concept paper(s) developed and circulated							

b) LINKING COMMUNITY WITH NATIONAL & INTERNATIONAL LEVEL ADVOCACY

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Urgent Action/Rapid Response Initiatives									
<p>a. Effective response to emerging HR concerns</p> <ul style="list-style-type: none"> Programmatic follow up on emergency interventions 	<ul style="list-style-type: none"> HURINETs' Urgent Action & KHRC Fact Finding Missions 	<ul style="list-style-type: none"> No. and relevance and impact of interventions made Effective documentation 	<ul style="list-style-type: none"> Reports & photographs Media briefings Minutes of meeting with relevant duty bearers Reporting framework developed 	<ul style="list-style-type: none"> KHRC staff HURINET reps Consultants CSOs Govt Depts 	1,435,051	19,134	<ul style="list-style-type: none"> Travel, Accommodation Meals and Stationery Project personnel costs Other incidental expenses 		
National Action Plan (NAP) on Human Rights									
<p>a. Harmonization of outputs of the various ongoing reform initiatives in Kenya following the 2007/8 violence</p> <p>b. Policy level engagements with relevant duty bearers</p>	<ul style="list-style-type: none"> Meetings of National Committee & Sharing Final NAP Policy 5 regional workshops on NAP 	<ul style="list-style-type: none"> Institutionalization of human rights commitments within government documents and action plans Summarized version of NAP disseminated among communities & duty bearers in govt depts. 	<ul style="list-style-type: none"> Outputs of national reform initiatives harmonized with NAP NAP becomes one-stop shop on reform & transition in Kenya 	<ul style="list-style-type: none"> KHRC staff HURINET reps Consultants CSOs Govt Dept 	431,950	5,759	<ul style="list-style-type: none"> Refreshments Stationery MV fuel 		
International Networking on Governance									
<p>a. International Human rights bodies support on governance issues</p>	<ul style="list-style-type: none"> Advocacy to International and Regional Human Rights Bodies 	<ul style="list-style-type: none"> Local issues get prominence and are taken up by international 	<ul style="list-style-type: none"> Concluding observations/resolutions No of advocacy 	<ul style="list-style-type: none"> KHRC staff Local CSOs International Human 	473,789	6,317	<ul style="list-style-type: none"> Air Ticket, Visa fees Accommodation 		

			monitoring bodies	meetings and issues supported	rights bodies			Meals and communication costs
Annual Operational Planning								
a. Operational plan and budgets ready for 2010/11 planned activities	<ul style="list-style-type: none"> Operational planning and budgeting 	<ul style="list-style-type: none"> Level of Funding of KHRC Operational Plan New funding partners 	<ul style="list-style-type: none"> Operational Plan and budget documents Grant Contracts signed with funding partners Expression of interest and funding by new funding partners 	<ul style="list-style-type: none"> KHRC staff KHRC Board HURINET reps KHRC Community networks Consultants 	1,663,439	22,179	<ul style="list-style-type: none"> Travel, Meals and Accommodation Consultant fee Stationery 	
Publicity & Media Web Site redesign and management								
a. Updated, reliable, accurate and presentable website	<ul style="list-style-type: none"> Engage a website developer to redesign website Launch new KHRC website 	<ul style="list-style-type: none"> Up to date information Feedback on website usage report No. of people visiting the website 	<ul style="list-style-type: none"> Website development report KHRC website No of visitors to the website 	<ul style="list-style-type: none"> KHRC staff Consultants 	774,928	10,332	<ul style="list-style-type: none"> Consultant fee Software Website hosting & related inter and intranet expenses 	
b. Interactive platform with and animated through KHRC website	<ul style="list-style-type: none"> Networking, publicity of KHRC publications 							
INSTITUTIONAL AND STAFF DEVELOPMENT								
Performance Management								
a. Staff with Multiplicity of skills to handle diverse thematic areas	<ul style="list-style-type: none"> Individuals and teams development needs assessment Thematic skill development for staff 	<ul style="list-style-type: none"> Career development Easy delegation and succession on exit of staff Easy rotation and synergy among team 	<ul style="list-style-type: none"> Seamless leave covering No. of staff benefiting from skill development by themes covered Training 	<ul style="list-style-type: none"> KHRC staff Learning Institutions Consultants 	1,715,345	22,871	<ul style="list-style-type: none"> Tuition fees Travel, Writing materials Stationery 	

	members	Certificates				
Human Resources Management Software						
a. Up to date Human Resources Management (HRM) System	<ul style="list-style-type: none"> • Purchase and installation of HRM software • Training of staff on use of software • Input and regular updating of the HR data base 	<ul style="list-style-type: none"> • Time saving • Improved institutional memory 	<ul style="list-style-type: none"> • KHRC staff • Consultants 	365,938	4,879	<ul style="list-style-type: none"> • Consultant fee • Software costs
Administrative Costs			Suppliers of goods and services	1,805,675	24,076	Office rent, telephone, utilities, postage, security, insurance, MV fuel and maintenance.
Total Side Funding				15,000,000	200,000	
Exchange Rate 1USD = Kshs 75						