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### Letter from TJRC to Public Accounts Committee

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# **TRUTH, JUSTICE AND RECONCILIATION COMMISSION – KENYA**

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NAIROBI - KENYA**

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**The Hon. Boniface Khalwale  
Chairman  
Public Accounts Committee  
Parliament Buildings  
NAIROBI**

21 April 2010

**Re: The Finances of the TJRC**

Dear Honorable Chairman

During the past few days an unfortunate impression has been created in the media regarding the finances of the Truth Justice & Reconciliation Commission (“TJRC”). The Commissioners of the TJRC deemed it appropriate to provide to you and your committee the true facts concerning the matter.

1. Despite the provisions of the TJRC Act regarding the independence of the Commission (see Section 21(1) of the Act), we have not had control over any monies allocated to us up to now. The Ministry of Justice, National Cohesion & Constitutional Affairs (the “Ministry of Justice” or the “Ministry”) has remained the accounting authority and the custodian of the budget for the TJRC. Further, they have verbally informed us that they would not be given authority over our

own funds until sometime next fiscal year. This remains to be the case even though the Secretary of the Commission, who by law is supposed to be the accounting officer of the Commission (see Section 13(2) of the Act), was sworn in on 15 February 2010. Consequently account # 1110001064 with NIC, Junction Branch , which the TJRC opened on 2 March 2010, is still empty of funds.

2. We want to make sure there is no misunderstanding. We have never had control over any monies allocated to us. Not only do we have no authority over monies that have been nominally allocated to us, money has, and continues to be, spent on our behalf without our knowledge or consent.

3. We have made repeated requests to the Ministry for reimbursement of expenses, and many of those requests have been denied by the Ministry. These denials have included:

- Money for our outreach trip to the Coast Province. Despite our requests, we were not given any money in advance and had to rely upon our own personal resources during the early part of the trip.
- Reimbursement for medical, travel and other expenses that were expressly approved by the Commission, but were subsequently denied by the Ministry.
- Reimbursement for moving expenses for the international commissioners has not been fully provided.

As a recent example of our lack of control over our finances, we have attached hereto a letter from our Secretary to the Permanent Secretary of the Ministry of Justice requesting money for provincial outreach visits. (See attached letter from Ms. Patricia Nyaundi to The Permanent Secretary, dated 12 April 2010.) On 15 April we received a response from a Mr. M.M. Omondi on behalf of the Permanent Secretary, acknowledging receipt of our letter and indicating that they would “revert to us in due course.” To date we have received no response to our request for those funds.

4. In addition, although our Secretary began working with us on 15 February, to date she has received no salary.

5. As early as October 2009 we requested an accounting of monies that had been spent on our behalf from our account within the Ministry. In early January we received two sets of papers that purport to explain payments made on our behalf. (See Attachments A and B). In April, we received a third set of papers purporting to be a breakdown of monies spent on our behalf by the Ministry of Justice. (See Attachment C.) In addition to the vagueness and inconsistencies among these three set of documents, we want to highlight the following problematic expenditures from our account:

- Approximately 16 million shillings have been spent on the Council of Elders, an organization that has no relationship with the TJRC. We have never been consulted about, much less given our consent to, these payments.
- Rent payments for our office that are inconsistent, and that may include rent for other commissions supported by the Ministry of Justice.
- Bulk payments to Ministry of Justice officials for non-existent retreats, or for retreats that occurred six months prior to the payments. For example, while we did have a retreat in Naivasha in September, we note that as late as January a Ministry official was paid over 500,000 Shillings, purportedly for that retreat.
- Monies have been spent on what the Ministry refers to as “casual workers.” The Commission has only hired one staff person, our CEO, and two consultants – a communications consultant and a research consultant. None of them has been paid till now. Individuals have been seconded to us by the Ministry, but to this date, and despite repeated requests, we are unaware of who the “casual workers” are, their functions, or how much they are being paid per month. The expenditure breakdown lists these payments in bulk form, making it impossible for us to ascertain who is being paid and for what activities.

The above list is not exhaustive. Other payments are unclear (i.e. Ksh 396,182 for “Operational Needs of the TJRC”) or inconsistent (the payment of airtime allowance to Commissioners and staff). We have requested from the

Ministry concerning expenditures undertaken “on our behalf,” and we are still eagerly awaiting their response. (We attach herewith our most recent inquiry concerning these finances in the form of a letter from our Secretary to the Permanent Secretary of the Ministry of Justice, dated 16 April 2010.)

6. On 11 December 2009 the TJRC submitted a two year operational budget for Ksh 2,055,462,700. (See attached letter from Commissioner Ronald Slye to Mr. Paul Masinde dated 11 December 2009, and the attached memo justifying the budget request.) To date we have received no official response from the Ministry with respect to the budget we submitted.

7. On 11 December 2009 the TJRC also requested a supplemental budget amount for the 2009-2010 fiscal year in the amount of KSh 631,146,300. (See the attached letter from Commissioner Ronald Slye to Mr. Paul Masinde dated 11 December 2009). As that request continued to go unanswered, and as with the passage of time the amount of money that could be used by the end of the fiscal year decreased, the TJRC wrote on 25 January 2010 to the Ministry of Finance to lower our request for supplemental funding to Ksh480,000,000 (See attached letter from Commissioner Ronald Slye to Mr. Ndola, dated 25 January 2010).

8. On 26 March 2010 we were informed by the Ministry of Justice that in response to our request for Ksh 480,000,000 in supplemental funding the Treasury had allocated Ksh 30,000,000 for the rest of the fiscal year.

9. We want to assure you and your committee that the Commission is united in its purpose. Despite our lack of funds from the Ministry, we are in the process of seeking sufficient funds independent of the control of the Ministry that will allow us to commence a pilot project on statement taking and data analysis.

10. We submit this letter and the supporting documentation in order to clarify that at no time has the TJRC had control over any finances. The Ministry,

who has seconded one of their finance officers to the TJRC, controls all and every aspect of our budget.

Please accept, Honorable Chairman, the assurances of my highest consideration.

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**Tecla Wanjala, Vice Chairperson**