



# Bi-annual

# Report

**Our achievements between**

April 1, 2023 - September 30, 2023

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# Disclaimer

Kenya Human Rights Commission (KHRC) has compiled this biannual narrative report with the assistance of development partners. The perspectives and opinions presented in this report may not necessarily align with those of the partners or its financial backers.

# List of abbreviations

AI	Artificial Intelligence
CBC	Competency Based Curriculum
CS	Cabinet Secretary
CTWOO	Come Together Widows and Orphans Organization
DPP	Director of Public Prosecution
DRC	Democratic Republic of Congo
EACC	Ethics and Anti-Corruption Commission
EANN	Executive Committee of the Eastern Africa Nationality Network
EBWG	Elimu Bora Working Group
FBO	Faith Based Organization
FBO	Faith Based Organizations
FIDA	Federation of Women Lawyers
GDP	Gross Domestic Product
HMK	Haki Madini Kenya Coalition
ICGRL	International Conference of Great Lakes Region
IEJ	Inclusion and Political Governance
IPJ	Inclusion and Political Justice
ISD	Institutional Support and Development
KES	Kenya Shillings
KHRC	Kenya Human Rights Commission
KK	Kenya Kwanza
KLA	Kenya Land Alliance
LGBTQI+	Lesbians, Gay, Bisexual, Transgender, Queer and Intersex
LRC	Legal Resources Centre
LRF	Legal Resources Foundation
MMM	Mkenya Mwenyeinchi Movement
MoE	Ministry of Education
NAP	National Action Plans
NIA	National Integrity Alliance
NIIMS	National Integrated Identity Management System
NIS	National Intelligence Services
PBO	Public Benefits Organizations
PWPER	Presidential Working Party on Education Reforms

SftFA	Soils for the Future Africa
SGBV	Sexual Gender Based Violence
SMT	Senior Management Team
SRHR	Sexual Reproductive Health Rights
TJRC	Truth, Justice and Reconciliation Commission
TSC	Teachers Service Commission
UK	United Kingdom

# Executive Summary

This bi-annual progress report summarizes the activities KHRC undertook from April 1 to September 30, 2023, yielding 25 outcomes attributed to the Inclusion and Political Justice (IPJ) theme, Economic and Social Justice (ESJ) domain, and the Institutional Support and Development (ISD) initiatives.

### **Inclusion and Political Justice (IPJ)**

In a politically volatile environment at the national and county level, KHRC played a pivotal role in consolidating 13 coalitions and movements. This collaborative effort resulted in these groups uniting under a new, all-encompassing umbrella known as the Mkenya Mwenyenchi Movement (MMM). An alliance of highly reputable civic human rights organizations now lead this loosely structured national and grassroots movement. Together, these entities champion economic and political justice in the country, and this mission continues. What was once a landscape of isolated coalitions and organizations has transformed, with these groups now finding leadership and support within KHRC—an exceptional development.

KHRC's meticulous organization and thoughtful leadership made civil society published a comprehensive State of the Nation report for the first time since the adoption of the constitution. KHRC spearheaded this initiative in close collaboration with like-minded organizations. The report critically assessed the performance of the Kenya Kwanza regime during President William Ruto's first year in office. It scrutinized various aspects, including the regime's adherence to and enforcement of the constitution, its commitment to upholding human rights and integrity, and its management of public finances, among other critical considerations.

KHRC's commitment extended beyond highlighting shortcomings within Ruto's regime. KHRC and its partners took proactive steps to prevent individuals with questionable integrity from assuming public office, a notable case being the former Director of Public Prosecutions (DPP), Noordin Haji. This campaign fell under the National Integrity Alliance (NIA) banner, of which KHRC is a part. Our efforts had a significant impact, with the parliamentary vetting process raising doubts about Haji's suitability for the role of the country's National Intelligence Service (NIS) boss.

Our influence extended beyond the parliamentary sphere. Transparency International Kenya (TI), on May 26, took the notable step of revoking the leadership and integrity award it had bestowed upon Haji in 2019. This decision was based on compelling evidence of his misconduct and abuse of office. However, despite our best efforts, the regime's continued impunity ultimately cleared Haji for the NIS boss position.

On the other front, a stateless community in Kenya found a valuable partner in KHRC. After more than eight years of lobbying, on July 28, 2023, the government officially acknowledged 7,000 members of the Pemba community in Kilifi as an ethnic community of Kenya. This historic moment saw over 4,000 eligible individuals receive identification cards, ending their stateless status.

The end of Pemba's statelessness was not the only triumph. Our advocacy for digital rights and justice yielded tangible results, too. On September 29, 2023, the launch of the Universal Unique Personal Identifier (UUPI), referred to as Maisha Namba, and the digital identity card was halted. This pause was a direct outcome of a robust advocacy by CSOs, including KHRC, under the National Integrated Identity Management System (NIIMS) coalition. Our petition to the Permanent Secretary for Immigration and Citizen Services, Julius Bitok, raised severe concerns and called for a delay until minimum standards were established.

Further and following KHRC's advocacy, there has been more recognition and inclusion of refugees by the government through updating of the E-citizen portal to enhance service delivery for refugees, marking an important moment in KHRC's advocacy work. We made a stride when the National Assembly Committee on Security and National Administration recommended the establishment of a task force to address refugee inclusion. This task force will explore access to citizenship or permanent residence for specific categories of refugees.

During this period, LGBTQI+ rights were under severe attack. As a result, in June 2023, KHRC took a significant step in confronting anti-LGBTQI+ movements that were propping up, threatening sexual reproductive health rights (SRHR). We established a steering committee comprising 13 organizations and three individuals from SRHR and LGBTQI+ groups to wade off attacks and protect these rights.

And who can forget about the high living costs? Our resolute campaign against tax injustices, introduced by the Kenya Kwanza regime, left an indelible mark. We protested heavy taxes and levies and wrote petitions urging fair and progressive taxation, not burdensome ones. Consequently, the Finance and National Planning Committee of the National Assembly heard us, adopting at least 15 recommendations from our petition and incorporated them into Finance Act 2023. We did not do this alone—Okoka Uchumi coalition was a valuable partner, and it played a big role in drafting the petition to MPs to reduce taxes.

In a demonstration of Africa's commitment to advancing transitional justice, KHRC, in collaboration with Atrocities Watch Africa and Africans for the Horn, achieved a



pivotal moment in the continent's pursuit of justice and peace. The success of this gathering reverberated on social media platforms, with KHRC's outreach touching 1,641 individuals online and garnering a staggering 582,982 views.

And it was not just that.

From April to September 2023, KHRC played a crucial role in preserving the legacy of the Mau Mau war veterans. The Mau War Veterans Foundation was officially registered after tireless efforts, and we established a dedicated website. Moreover, the invaluable memoirs of these heroic veterans were documented, creating an enduring repository of their contributions to Kenya's liberation struggle.

The registration of the Mau War Veterans Foundation marks the culmination of a 21-year journey undertaken by KHRC to pursue justice for the Mau Mau war heroes. This endeavour ensures that their sacrifices and stories will continue to inspire future generations so the country can never forget their critical role in the country's history.

### **Economic and Social Justice (ESJ)**

Further, in line with the United Nations Guiding Principles on Business and Human Rights adopted in 2015, the government established a National Action Plan (NAP) on Business and Human Rights on May 12, 2023 to hold corporations accountable for human rights abuses. KHRC has been instrumental in the NAP development process including being the sole CSO representative appointed to the Steering Committee, underscoring the recognition of the organization's vital role in promoting corporate accountability.

Our collaboration with stakeholders was instrumental in exposing human rights violations by corporations. For instance, Tesco, a major UK retailer, suspended Del Monte products from its shelves on June 22, 2023, after allegations of human rights abuses by the firm's security guards emerged. Investigations by Leigh Day, a UK-based law firm in partnership with KHRC and Ndula Resource Centre, revealed claims of violence and excessive force against locals leading to the market boycott.

Our fight for justice did not end with exposing rights abuses in the farms. We worked closely with other partners to revive the Haki Madini Kenya coalition, making it the most influential entity championing reforms, justice, and accountability in the land and natural resources sectors and responding to emerging human rights concerns.

Additionally, our increased advocacy efforts with other partners contributed to policy directives that will see local communities benefit from natural resources. For example,

after a sustained campaign for the government to lift the moratorium on mining licenses, it did so during this period.

KHRC's community engagement further spurred a demand for transparency and community participation in carbon credit projects. This advocacy caused the suspension of a carbon credit project by Soil for the Future Africa Limited (SftFA), covering more than 1000 acres in Kajiado county.

During this time, KHRC demanded that the government and corporations respect people's rights and uphold freedom of expression. This involvement was seen in various cases:

- An application by KHRC and the Legal Resources Centre, a South African CSO, to be included as amicus at the African Court of Human and Peoples Rights. Though dismissed on a technicality, it remained a bold solidarity move that highlighted pertinent concerns about internet shutdowns during elections and their impact on political rights.
- In July 2023, the Chief Magistrate Court in Naivasha found the owners of the Solai dam and seven others with a case to answer. The accused persons are facing 45 counts of manslaughter after the dam burst its banks in 2018, resulting in the loss of 45 lives. KHRC has been representing victims of the dam tragedy since the bursting of the dam in 2018.

There was sustained advocacy towards the right to education through the Elimu Bora Working Group (EBWG, of which KHRC is a part. Challenges faced during transitioning to the Competency-Based Curriculum (CBC) prompted this effort. As a result, Parliament halted the implementation of the Presidential Working Party on Education Reforms (PWPER reports, citing legal and constitutional overlaps in line with EBWG's advocacy demands. KHRC, in partnership with EBWG, filed a petition challenging the new University Education Funding model on the grounds of gross discrimination and unfair administrative practices by the state in hastily rolling out the new funding plan without adequate public consultation.

### **Institutional Support and Development (ISD)**

KHRC's strengthened organizational capacity provided timely and comprehensive reports to its funding partners. It, in turn, fostered greater trust and collaboration between KHRC and its funders. Transparency and accuracy in reporting have become instrumental in solidifying relationships and advancing the organization's mission.

The increased visibility of KHRC, both online and offline, is a testament to the organization's unwavering dedication. This heightened visibility has significantly expanded KHRC's reach and impact. Notably, during the Okoa Uchumi campaign, the organization reached a cumulative audience of 17,000,000 people online and an additional 60,000 through newspapers. Additionally, a weeklong commemoration of Katiba Day and a strategic media presence garnered substantial reach on various platforms.

In the face of a challenging funding landscape, KHRC exhibited improved financial resilience and sustainability. This includes securing funding from traditional partners and funders and attracting support from new donors. This achievement is particularly noteworthy given the constraints of a funding environment that has been steadily shrinking.

The details of these outcomes are provided in Annex 1. KHRC, in collaboration with its CSO partners and Human Rights Networks (HuriNets), issued 20 press statements. These releases were primarily directed towards the Kenya Kwanza regime, condemning the growing impunity and human rights violations. Planned activities were executed effectively, with an implementation tracking matrix revealing that only six of the 74 critical activities planned during the reporting period experienced slight delays.

# 1. Introduction

This is KHRC's first biannual narrative report, covering April 1 to September 30, 2023, under the transitional Operational Plan (OP) for financial year 2023-24. This report sheds light on KHRC's dedication to advancing human rights, both within Kenya and on a global scale. The report details KHRC's notable achievements, key milestones, and the obstacles encountered during the reporting period. Additionally, it shares the valuable lessons learned, provides recommendations for future actions, and outlines the organization's plans for the upcoming quarter. This report provides a deep analysis of KHRC's performance within the current operational environment and how it influences the organization's work. It offers synthesized information crucial for guiding decision-making within the organization.

## 1.1 Overview of the KHRC programmes

KHRC actively worked to make a positive impact on democracy and human rights. We put plans into action and aimed to achieve essential goals, which included getting people involved in politics and critical governance processes. We also aimed to address serious human rights issues at all levels. To achieve this, the organization operated along three main areas:

1. Economic and Social Justice (ESJ)
2. Inclusion and Political Justice (IPJ)
3. Institutional Support and Development (ISD)

ESJ and IPJ are the organization's program domains, while ISD focused on improving how we work better to serve the needs of the staff, country and our partners.

## 1.2 Development in the Operating Context

During this reporting period, the Kenya Kwanza regime marked its first year in office, yet its leadership seemed caught up in a perpetual campaign mood. Expectations of the electorate remained unmet, with campaign promises still needing to be fulfilled. There was a growing culture of impunity and an increasing hostility towards CSOs promoting human rights. Constitutional violations and human rights abuses by state enforcement agencies marked the governance situation.

Efforts for inclusive governance in Kenya remained elusive. Public officers, including the president and his deputy, made statements that fueled divisions along ethnic and

regional lines based on voting patterns in the previous poll.

Public debt continued to rise due to the government's significant borrowing, reaching a staggering Sh9.63 trillion. The high cost of living burdened citizens, with the regime failing to implement measures to alleviate their suffering. Instead, the administration introduced additional taxes, increasing the financial strain on the population. The government's focus on raising taxes contrasted with several corruption scandals, that led to significant financial losses and a lack of accountability.

In response, the Opposition, Azimio La Umoja Coalition, called for weekly protests to address punitive taxes, the high cost of living, and disregard for the rule of law and the Constitution. Police responded with excessive force, brutality, killings, and arbitrary arrests, prompting condemnation from KHRC and other CSOs. KHRC secured the release of 156 peaceful protestors that police held at various stations. These developments signified shrinking civic space, with the government failing to implement the Public Benefits Organizations (PBO) Act, leading to concerns about targeting human rights defenders.

During this time, calls for the regime and Opposition to dialogue raged. The bipartisan talks between the administration and the Opposition initially stumbled. There was a perceived lack of commitment from the government's side. However, the talks resumed, and the discussions focused on a five-point agenda. The cost of living, two-thirds gender rule, national unity, and governance, checks and balances in government, and fidelity to political parties got clustered together. Electoral justice and reconstitution of the Independent Electoral and Boundaries Commission (IEBC), boundaries delimitation, and audit of the 2022 General Elections formed another cluster. A proposal to entrench into the Constitution the Office of the Leader of the Official Opposition and the Office of the Prime Cabinet Secretary was also part of the agenda.

In the meantime, the need to reform the education sector became even more urgent. Learners under the Competency Based Curriculum (CBC) transitioned to Junior Secondary Schools with inadequate teacher preparedness, teacher-student ratio, inadequate infrastructure and delayed fund disbursement.

In the corridors of justice, the Supreme Court made a landmark decision, averring that LGBTQ people have the right of association. KHRC expected this ruling to be respected—we were wrong. Some religious groupings organized inciteful protests and campaigns that threatened the lives of LGBTQ people. We did not wait for more harm to unfold. We wrote to the National Cohesion and Integration Commission (NCIC) to

act against inciters.

As these took place, with prompt response and proactive steps, KHRC maintained its focus on corporate accountability and regional transitional justice. We facilitated the launch of a monitoring mechanism with regional and international CSOs, publishing findings on the cessation of hostilities in Ethiopia.

Separately, KHRC advocated for the rights of stateless persons and refugees through third-generation identification cards—Maisha Namba.



*Juma Omar Ali proudly displays his national ID after the government officially recognized the Pemba Community as Kenyan citizens.*



# 2. Key Achievements & Implementation Progress

KHRC achieved 25 critical outcomes across three action areas: 15 in IPJ, eight in ESJ, and three in ISD. You can find details of these outcomes in Annex 1.

Working alongside partners, including Human Rights Networks (Hurinets), KHRC issued 20 press statements, primarily focusing on addressing violations Kenya Kwanza regime committed. These statements condemned the increasing culture of impunity and abuses against human rights defenders and organizations, as elaborated in Annex 3. Further, KHRC successfully carried out its planned activities, with only six out of 74 experiencing delays, as detailed in Annex 2. We have provided a more comprehensive discussion of the progress toward achieving these outcomes in the following sub-section.

## Economic and Social Justice

### **i) Corporate accountability/ business and human rights**

KHRC continued to play a crucial role in influencing policies and keeping an eye on legal frameworks related to corporate responsibility for human rights. This aligned with the 2015 commitment by government to adopt the United Nations Guiding Principles on Business and Human Rights and the recent launch of the National Action Plan (NAP) on Business and Human Rights in May 2023. The NAP marked a significant commitment by the government to ensure businesses act responsibly in Kenya.

What's noteworthy is that KHRC, was for a long time, the only CSO representative on the NAP's steering committee, indicating recognition and respect of its expertise on corporate accountability matters. Using this position, KHRC actively contributed to the process of developing the NAP. Additionally, in collaboration with the Danish Institute for Human Rights, the organization led in drafting a National Baseline Assessment, a vital step in shaping the NAP. Today, KHRC is an integral member of the NAP Implementation Committee, where it continues to influence conversations about corporate accountability.

We have continued to shape the corporate accountability agenda not only nationally but also at regional and international levels. At the invitation of the United Nations Development Programme (UNDP), the KHRC contributed to discussions on development and implementation of relevant policy frameworks to tame corporate behaviour. This took place at the East African Conference on Business and Human Rights held in May 2023 in Kampala. In September 2023, the KHRC at UNDP's invitation, was part of the CSO delegation in Addis Ababa during the 2<sup>nd</sup> African Forum on Business

and Human Rights where we gave insights on the role of civil society in the NAP development and implementation process. The continued invitation of KHRC to high level regional and international policy elaboration spaces is confirmation of our recognition in the sector.

Furthermore, KHRC, without wavering, monitored corporations that violated human rights. For instance, following investigations through a partnership with Ndula Resource Centre and Leigh Day, a leading UK law firm, Tesco, a major UK retailer, suspended Del Monte products from its shelves in June 2023. Tesco's decision followed allegations of human rights abuses involving Del Monte security guards, including severe assaults and fatalities. The investigations brought these issues to light, forcing major UK retailers to rethink their sourcing practices. The Del Monte case attracted significant media attention, both locally and internationally, highlighting the gravity of corporate non-compliance with human rights standards. In its characteristic tenacious nature, KHRC has been representing in court, victims of the Solai dam tragedy since the bursting of the dam that killed nearly 50 people in 2018. One of the major initial wins for the affected communities was experienced when a chief magistrate at the Naivasha Law Courts placed the owner of the dam, and 8 others, in their defence after finding that they had a case to answer. One of the victims had this to say, *"This case would not have come this far if KHRC had not stood with us. We have seen many organisations come and go but KHRC has not abandoned us. Thank you for the support."*

## **ii) Public Finance Management (financial inclusion/inclusive economies)**

KHRC collaborated with the Okoa Uchumi Coalition to submit a well-reasoned petition to the National Assembly to protest the punitive Finance Bill, 2023. As a result, the Committee of Finance and National Planning adopted at least 15 recommendations, which later got incorporated into the Finance Act of 2023. The campaign that led to the adoption of these recommendations, which included a May 22, 2023, media briefing, attracted significant press coverage, including 14 TV stories and five print articles, leading to increased awareness and publicity of the matter. This campaign reached at least 17 million people online and 60,000 through a newspaper opinion article. Online, KHRC, in June 2023, started at least seven trending hashtags to raise awareness about the punitive law.

## **iii) Land and resource justice**

On March 14, 2023, KHRC was appointed host organization for the Haki Madini Kenya (HMK) coalition. This appointment underscored the confidence and

recognition of the organization's capacity to provide leadership against policies and legislation that deprive communities of their fair benefits from land and natural resources.

Between April and September 2023, KHRC was instrumental in discussions promoting sustainable mining practices. This sector faces governance challenges due to outdated policies that fail to protect communities' interests and the public in resource management. Reviving the HMK coalition was crucial for addressing natural resource justice in the region, with KHRC providing strong coordination to challenge the existing norms. Simultaneously, this appointment coincided with KHRC's partnership with Oxfam-Kenya on a project that advances sustainable mining practices, strategically positioning the organization and its work in the mining sector.

Besides being appointed to host HMK, KHRC and its partners revitalized the coalition, making it a powerful advocate for reforms, justice, and accountability in the land and natural resource sectors. The renewed strength of the alliance attracted reputable organizations working in these areas, including Kwale Mining Alliance, Catalyste+, and International Alert. Furthermore, the leadership of the Kenya Chamber of Mines expressed willingness to collaborate with HMK on joint interventions in the mining sector. New funding partners supported KHRC's role in spearheading the HMK initiative. As a result, HMK's growth can be attributed to KHRC's strategic positioning of the coalition in important national, regional, and international forums.

Moreover, under KHRC's leadership, the coalition's Strategic Plan was reviewed in September 2023, providing a strategic focus and serving as a fundraising tool. KHRC also led in revamping the coalition's website to increase its visibility.

In October 2023, the Ministry of Mining, Blue Economy and Maritime Affairs lifted a moratorium on issuance of new mining rights and use of traditional and customary means for mining. The Principal Secretary, State Department for Mining, had attended the Kenya Mining Week convened by KHRC, Association of Women in Extractives in Kenya (AWEIK), Kenya Chamber of Mines and other partners in July 2023, where he committed to lift the moratorium. The lifting of the ban also followed sustained advocacy by KHRC and other partners under the Haki Madini Coalition. The move by the Ministry will ensure safeguards for artisanal miners who have hitherto suffered huge exploitation from middlemen due to lack of formal recognition by the government. The lifting of the ban was also a significant step towards creating an enabling environment that allows local communities to benefit from resources extracted from their areas, unlocking the sector's economic potential and contributing to the country's GDP.

Lastly, a carbon credit project by Soil for the Future Africa limited (SftFA) covering more than 1000 acres of land in Kajiado County was halted by the community on 15<sup>th</sup> August 2023, following which the community demanded for a more transparent process. The halting of the project came after KHRC, and the Kenya Oil and Gas Working Group convened advocacy sessions with community leaders to sensitise them on the carbon credit project. It was after the empowerment sessions that the community called off the project, demanding meaningful involvement and participation in the proposed benefit sharing framework.

#### **iv) Digital Justice**

The Initiative for Economic and Social Rights in Serbia submitted a request to the Constitutional Court to evaluate the constitutionality of the Law on Social Card, which did not align with their Constitution, international treaties, and the principle of legal order unity. The Law on Social Card involved processing 135 pieces of personal data for citizens benefiting from social protection rights or those seeking to exercise them. This extensive data handling, a unique situation in Serbia, affected the fundamental principle of personal data protection—specifically, the breach of the data minimization principle and limitations on processing purposes. What's more, the law lacked clear guidelines on how this data processing occurred, potentially jeopardizing the rights of the country's most vulnerable citizens. In support of this matter, KHRC and five global organizations submitted a legal opinion to the Serbian Constitutional Court. This matter is still in court.

At the African Court on Human and Peoples Rights, KHRC, in partnership with the Legal Resources Centre in South Africa, applied to be enjoined as *amicus curiae* in a case that opposed Benin's internet shutdown. This application, submitted on June 26, 2023, wanted Benin's government held to account for closing the internet during the 2019 parliamentary elections. Lasting nearly 24 hours, this shutdown contributed to a concerning global trend observed in election-related clampdowns, as seen in Tanzania and Uganda in 2020 and 2021, respectively. Although KHRC's application was dismissed because of a technicality as it was time-barred, it brought out a worrying pattern of internet shutdowns during elections and its profound effect on civil and political rights.

The application and the legal opinion submitted to the Serbian Constitutional Court are a confirmation of KHRC's tenacity to escalate violations to regional accountability frameworks and to remain in solidarity with CSOs not only at the national level but also regionally and internationally.

## **v) Educational Rights**

The Elimu Bora Working Group (EBWG), which KHRC is hosting, has been pushing for the right to education due to constraints in the Competency Based Curriculum (CBC) transition. This followed President William Ruto's formation of the Presidential Working Party on Education Reforms (PWPER). PWPER's released its report with far-reaching ramifications. Despite the Ministry of Education's efforts to implement parts of the document, Parliament recently stopped it, agreeing with EBWG's concerns about legal overlaps.

One of the PWPER's recommendations, which the government implemented, overhauled the university education funding model, discriminating hundreds of thousands of students. Consequently, KHRC and EBWG sued to stop the model. We argued it discriminates and lacks proper public consultation. The matter is still in court.

Before moving to court, KHRC and EBWG, on April 20, 2023, created a framework for education standards. The document now serves as a guide for involvement in education reform campaigns, and the government has partly addressed some concerns we raised i.e., allocation of Kshs 4.8 billion in the financial year (FY) 2023/24 budget to recruit 20, 000 intern teachers. Last year (FY2022/23), the Teachers Service Commission (TSC) received 2.5 billion for teacher recruitment. With EBWG, KHRC had two press conferences about education and three meetings with bit reporters, cementing our relationship with the media. As a result, the EBWG was able to shape and sustain media agenda on education reforms, with its members as panellists in various talk shows. Besides, EBWG's membership increased to 13 from five, showing more acceptance of KHRC in leading education advocacy in Kenya.

## **2.2 Inclusion and Political Justice**

### **i) Political governance**

Between April and September 2023, KHRC enhanced its ability to lead and coordinate human rights efforts in Kenya. This improvement was demonstrated through our effective organization of sector players and timely responses to emerging human rights and governance abuses.

Notably, KHRC, alongside other CSOs, contributed to shaping the country's policy direction, with our increased convening power leading to the collaboration of 13

coalitions and movements responding to the volatile political climate. This collaboration birthed the Mkenya Mwenyenchi Movement (MMM), a national and grassroots formation championed by reputable civic human rights organizations. MMM focuses on advancing economic and political justice by promoting integrity and governance accountability.

KHRC's improved convening prowess was also evident in our success in bringing Faith-Based Organizations (FBOs) together for the first time, resulting in new partnerships. During the Katiba Day celebrations, KHRC and partners created a platform for Kenyans to critique the government's retrogressive political pronouncements, securing FBOs' support to incorporate Katiba discussions in their sermons. The weeklong commemoration attracted a significant media presence. And we did not stop there.

We marshalled up CSOs towards development of the first-ever collaborative State of the Nation report to offer an alternative lens to the president's report that was issued in line with the president's constitutional mandate. Our report assessed the regime's performance in the past year and adherence to the Constitution on various fronts, offering an unprecedented bold, daring rejoinder to the president's lies and half-baked truths.

## **ii) Transitional justice: Sustaining remembrance and memories**

KHRC and Atrocities Watch Africa and Africans for the Horn, on July 10, 2023, successfully launched the first-ever civil society monitoring mechanism of the Ethiopia Cessation of Hostilities Agreement. The virtual event was attended by over 170 CSO participants from East and Horn of Africa. During the launch, KHRC provided a platform for stakeholders to discuss significant gaps impacting the protection of civilians in Ethiopia. The report from the launch has sustained public conversations on emerging transitional justice issues, emphasizing the need to implement the cessation of hostilities agreement.

On the national level, in partnership with over 200 survivors, human rights defenders, and other critical actors, we petitioned the Cabinet Secretary (CS) of Interior Coordination, Kithure Kindiki, to revoke legal notice number 1 of 1991. The legal notice declared Nyayo House as a protected area. As such, it has been difficult for victims and survivors of the Nyayo House torture to visit the site without seeking prior consent from the Nairobi County Commissioner. The legal notice is also an impediment to making it a memorial site.

Additionally, KHRC commemorated the 20<sup>th</sup> anniversary of the Nyayo House torture chambers' opening, aiming to push the government to fulfill its promises made in 2003, including establishing a memorial monument and implementing recommendations from the Truth, Justice and Reconciliation Commission (TJRC) report. This commemorative event revived public discussions around the urgent need to implement the Restorative Justice Fund. To sustain the remembrance of Mau Mau war veterans, KHRC was instrumental in registering the Mau Mau War Freedom Fighters' Foundation, developing its website, and documenting veterans' experiences through a memoir. This registration marks a significant achievement in KHRC's 21-year journey to seek justice for Mau Mau war veterans and ensure reparations for victims and their families. The website serves as a repository, and the Foundation will ensure the continuity of its legacy as the veterans enter their sunset years.

### **iii) Civic space and security injustices.**

Since the Kenya Kwanza regime took office, civic engagement space has shrunk. Police brutality and harassment have been entrenched, complicating human rights groups' operations. To counter this trend, KHRC, Police Reforms Working Group (PRWG), and Civic Freedoms Forum (CFF) issued statements condemning security agencies' excesses, including the unlawful use of force, arrests, and deployment of lethal weapons against peaceful protesters. Police deadly force was specifically witnessed during protests over the high cost of living and amendments to the Finance Bill. Our media statements sparked global conversation to respect the right to protest. For instance, in May 2023, the African Commission on Human and Peoples Rights (ACHPR) issued a statement, prompted by KHRC and other CSOs, calling on the Kenyan government to respect the right to protest. This statement, in turn, triggered the United Nations (UN) to condemn the use of force by security agencies in Kenya.

We did more than just make statements—we offered legal support and provided humanitarian and medical assistance to a human rights defender (HRD) injured while documenting police excesses in Kisumu. Showing empathy to HRDs in distress is something we often do as we remain acutely aware that the work of HRDs is often thankless and requires huge amounts of solidarity for its continuity.

### **iv) Minorities rights: LGBTQ, stateless, refugees, women, youth among others.**

After 8 years of consistent lobbying, our efforts finally paid off when the government, on July 28, 2023, recognized over 7,000 members of the Pemba community in Kilifi as Kenyan citizens. And for the first time, the government issued them with over 4,000



identification (ID) cards. With these IDs, the Pembas can now enjoy the same rights as other Kenyans, which were denied to them for many years. We could tackle statelessness even more effectively as a team, and on July 27, 2023, together with Namati, facilitated the launch of the East African Nationality Network (EANN) strategic plan. EANN is a network of 15 CSOs working on nationality rights in six Eastern African states, aiming to address challenges facing minorities, especially refugees.

Through the National Integrated Identity Management System (NIIMS) coalition, we petitioned the Permanent Secretary for Immigration and Citizen Services, Julius Bitok over the rollout of the Universal Unique Personal Identifier (UUPI), Maisha Namba. This digital identity card was exclusionary and prone to data breaches. Before the government unveiled this number, we advocated for appropriate policy and legal frameworks on digital rights and justice. Our joint actions contributed to the delay of Maisha Namba's launch, initially set for September 29, 2023.

Recognizing the exclusion of refugees from digital platforms, KHRC pushed for their increased access and inclusion on E-Citizen. This led to the government revising the E-citizen portal to include the refugee ID card number in the dropdown menu in April 2023, making government platforms more inclusive and accessible to refugees.

KHRC also played a significant role in countering the anti-rights movement, establishing a steering committee on June 15, 2023, comprising 13 organizations and three individuals from Sexual Reproductive and Health Rights (SRHR) and LGBTQI+ organizations. The committee developed an opposition mitigation strategy to counter anti-gay movements and protect SRHR and LGBTQI+ rights. KHRC organized a unique convening of SRHR and LGBTQI+ rights organizations, experts, activists, and donors in Nairobi to discuss this strategy.

## **2.3 Urgent response to emerging human rights issues**

During this reporting period, KHRC swiftly responded to urgent human rights issues, particularly those related to police actions during public protests. Between May and July 2023, KHRC intervened and successfully secured the unconditional release of 156 peaceful protestors detained at various police stations in Nairobi. These protestors advocated against the high cost of living and the punitive taxes proposed in the Finance Bill, now an Act. Among them were 85 individuals police arrested in Nairobi on June 6, 2023, for peacefully demonstrating against the proposed tariffs. KHRC ensured their release on the same day police nabbed them. Additionally, police detained 71 peaceful protestors on July 7, 2023, and KHRC intervened and secured their freedom.



*KHRC's Furaha Charo (right) during the launch of the Haki Madini Kenya 2024-2028 strategic plan at the 2023 "Jukwaa La Madini, Mafuta na Gesi" conference in Nairobi.*

# 3. Constraints, Opportunities and Lessons Learned

### **3.1. Constraints / challenges**

The continued capture of independent and oversight institutions by the state continues to pose challenges for human rights defenders and organizations combating impunity. Despite efforts by KHRC and its National Integrity Alliance (NIA) members to question the integrity of former Director of Public Prosecutions (DPP) Noordin Haji, Parliament cleared him as the National Intelligence Service (NIS) Director-General. The MPs' decision raised concerns about compromised leadership. Haji, without justifiable reasons, closed high-profile cases involving top leaders in President Ruto's cabinet.

### **3. 2. Lessons Learnt and best Practices**

Several valuable lessons were learned. Firstly, human rights CSOs must unite and speak with one voice when defending human rights and holding the state accountable. Secondly, taking legal action against individual office bearers, such as the Inspector General (IG) of Police and other cops, encourages them to act with restraint and comply to some extent with the law. We have increasingly found this to be more effective than suing the entire police service.



*On October 18, KHRC's advocate, Kelly Malenya, spoke to the survivors of the Solai Dam tragedy during a gathering in Nakuru. At this meeting, the owners of the dam, facing manslaughter charges, consented to providing compensation to the survivors for the loss of their loved ones.*

# 4. Research, Monitoring and Evaluation

KHRC has commissioned nine studies, currently at various stages of implementation. Three monitoring and evaluation (M&E) sessions with KHRC have been conducted to track and assess the implementation progress, identify challenges, and propose strategies for overcoming them. Additionally, an M&E consultant was engaged to enhance KHRC's monitoring and evaluation processes. An inception report was developed, and the first set of M&E data collection tools formulated. The institutionalization of KHRC's M&E plan is scheduled to be initiated in the coming quarter.



*Rarieda MP Otiende Amollo served as the chief guest during the "Katiba at 13" commemoration held at the Mazingira Institute in Nairobi on August 25, 2023.*



# 5. Institutional Support & Development (ISD)

## 5.1. Key Outcome Areas

During the review period, KHRC significantly improved its operational capacity through strategic initiatives focused on recruiting and training staff in essential areas like programs, communication, human resources, and finance. As a result, KHRC now has a more versatile and efficient team.

The recruitment and training have led to noticeable improvements in KHRC's overall performance and ability to deliver programs effectively. This progress has had tangible impacts on several fronts.

Firstly, the organization can now comprehensively and on a timely basis report its activities and outcomes to funding partners, fostering greater trust and collaboration. This improvement in donor care has strengthened relationships and achieved greater donor compliance.

Secondly, KHRC's enhanced operational capacity has increased its visibility on various online and offline platforms. The organization can better communicate its mission and accomplishments to a broader audience. This improved visibility has amplified the impact of its advocacy efforts and gained more support and recognition from the public and stakeholders.

Thirdly, KHRC has shown financial resilience and sustainability despite challenges in the funding landscape. The organization secured funding from traditional partners and attracted support for five new projects, a significant achievement in a shrinking funding space. This strategic diversification of funding sources was crucial in ensuring the continued implementation of KHRC's activities.

The success in attracting new funding is attributed to a multifaceted approach. KHRC engaged in strategic outreach and relationship-building with prospective donors, building trust and establishing strong connections. This approach expanded the financial support base, mitigating risks associated with relying solely on existing partners.

Finally, KHRC effectively demonstrated its impact and relevance in human rights. Through a robust presentation of its work and achievements, the organization

showcased its effectiveness and tangible outcomes. This evidence-based approach resonated with existing and potential donors, strengthening KHRC's credibility and appeal.

KHRC's focused efforts in recruiting and equipping staff in crucial areas have propelled the organization to fulfill its core mandate. This comprehensive approach has strengthened its operational foundation and positioned the organisation as a more effective and influential force in championing human rights in Kenya and the region. The ability to secure funding beyond traditional partners underscores KHRC's financial resilience and adaptability, ensuring its continued effectiveness in advancing human rights course.



*On May 28, 2023, the Elimu Bora Working Group unveiled a guide outlining the framework for minimum standards and principles of education in the 21st century. KHRC's Mary Kambo addressed the meeting during the launch.*

6.

# Conclusion and Recommendation

## **6.1: Conclusion**

We are currently on track with the planned activities. Our focus is on speeding up any delayed tasks, and ensuring the impact of our work is vital. Additionally, KHRC will continue to promote and protect human rights in Kenya and the region.

## **6.2. Recommendations/Way forward**

To enhance our efficiency, we endeavour to:

1. Expedite delayed activities: Accelerate delayed task completion and gather outcomes directly tied to KHRC's influence.
2. Monitor the impact of advocacy efforts: Evaluate the effectiveness of press releases, petitions, and protests in contributing to reported outcomes.
3. Operationalization of M&E Tools: applying the monitoring and evaluation tools for systematic data collection and effective reporting.
4. Decentralizing legal aid strategy: Create a plan for providing legal aid to a wide range of citizens through strategic partnership with grassroot level human rights networks and establish a referral mechanism for cases outside KHRC's strategic focus.

# 7. Annexes

**Annex 1:** Database of draft outcomes harvested between April-September 2023 Period.

Link: <https://shorturl.at/iqyP2>

**Annex 2:** Implementation progress April-September 2023 Period

Link: <https://shorturl.at/gmnop>

**Annex 3:** Summary of press statements/ petitions/memoranda developed and submitted.

Link: <https://shorturl.at/dCR08>

**Annex 4:** Summary of Cases Litigated with KHRC Support

Link: <https://shorturl.at/eAUZ9>

**Annex 5:** Activities planned for October-December 2023 Period

Link: <https://shorturl.at/juAB6>

**Annex 6:** Research studies, baseline, scoping and evaluations undertaken.

Link: <https://shorturl.at/iBDOX>





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