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Disclaimer

The Kenya Human Rights Commission (KHRC) produced this report with the support of development partners. The views and opinions expressed here do not necessarily reflect the views of its funding partners.

List of abbreviations

ACESS Alliance of Civil society Organisations for Clean Energy

CBC Competency Based Curriculum

CS Cabinet Secretary

DPP Director of Public Prosecution

EACC Ethics and Anti-Corruption Commission

EANN Executive Committee of the Eastern Africa Nationality Network

EBWG Elimu Bora Working Group HMK Haki Madini Kenya Coalition

ICGRL International Conference of Great Lakes Region

IEJ Inclusion and Political Governance

IPJ Inclusion and Political Justice

IPRS Integrated Population Registration System ISD Institutional Support and Development

KES Kenya Shillings

KHRC Kenya Human Rights Commission

LGBQT Lesbians, Gay, Bisexual, Queer, and Transgender
NIIMS National Integrated Identity Management System

SGBV Sexual Gender Based Violence

ODPP Office of Director of Public Prosecution

SMT Senior Management Team

SRHR Sexual Reproductive Health Rights

UK United Kingdom

UUPI Universal Unique Personal Identifier

Executive Summary

This report covers the progressive strides made in implementing the Kenya Human Rights Commission (KHRC) activities between October and December 2023, where we recorded 20 outcomes. The achievement was a buildup of the momentum set in the preceding quarter of July-September 2023, where KHRC marked an additional 25 outcomes. Cumulatively, KHRC tallied 45 outcomes in 2023, with several achievements attributed to collaboration with other civil society organizations (CSOs), as detailed in Annex 1.

Notably, this collaboration extended to addressing pressing national issues, as KHRC, alongside other CSOs, released eight press statements during the reporting period. These statements shed light on the state of the nation and human rights violations perpetrated by the Kenya Kwanza regime.

During this timeframe, the visit of UK's King Philip Charles III to Kenya resurrected memories of atrocities committed during the six-decade colonial era. The colonial administration committed extrajudicial torture and killings of 90,000 Kenyans, causing one of the darkest chapters in Kenya's history. KHRC petitioned the British High Commissioner, demanding an apology from the King and adequate reparations for the victims. Regrettably, the King responded evasively, failing to apologize outrightly, prolonging the ongoing struggle for an apology and proper compensation.

Simultaneously, this reporting period marked over a year since President William Ruto assumed power. Despite expectations of a State of the Nation address around September, the President's delayed appearance before Parliament in November prompted KHRC to call him out for contravening Article 132 (1) of the Constitution, which mandates him to address Parliament annually and provide a comprehensive report on the measures taken and progress achieved in realizing national values and principles of governance. We also analyzed critical issues conveniently overlooked in his speech.

Amidst the socio-political landscape, the country experienced a surge in demonstrations due to the escalating cost of living, met with brutal force from the police. The resultant toll was severe, pushing the nation to the brink of chaos. Calls for dialogue between the opposition and the government intensified, culminating in talks facilitated by the National Dialogue Committee (NADCO). However, the outcomes revealed that the discussions primarily centered around the ruling class, leaving the plight of suffering Kenyans largely unaddressed. We exposed this betrayal in our end-of-year statement, accessible in Annex 3.

In another distressing development, the nation grappled with the revelation of a staggering loss of Sh63 billion in the mismanagement of the construction of the Arror and Kimwarer dams. Hopes for justice were shattered when the court acquitted all nine suspects, including former Treasury Cabinet Secretary (CS) Henry Rotich, citing prosecutorial mismanagement. KHRC and Transparency International (TI) jointly condemned this dereliction of duty through a media address on December 20. Further, KHRC, TI, Katiba Institut3e and Africa Centre for Open Governance (Africog) filed a lawsuit on December 29 against prosecutors Geoffrey Obiri and Oliver Mureithi for failing to handle the case diligently. In sum, this report is about a period of intense activities that KHRC and partners designed to combat state impunity and hold those in power accountable.

1. Introduction

This marks the release of KHRC's third report within the Financial Year spanning April 2023 to March 2024. The first report covered activities from April to June, while the second, a biannual edition, covered the period from April to September. As we delve into this third quarter, our primary objective is to document the progress of activities implemented by KHRC during quarter three, drawing connections to the preceding reporting period.

And so, this report comprehensively analyses KHRC's performance in the current operating context. By contextualizing the progress made in quarter three and juxtaposing it against the backdrop of the previous reporting period, we aim to provide a synthesized overview. This synthesized information is indispensable for KHRC's management and the board as it equips them with the insights needed to make well-informed decisions. Furthermore, for continuity, we will present a cumulative overview of achievements for the current financial year, shedding light on the trajectory of success and areas of improvement. By doing so, this report will serve as a record of past undertakings and a strategic tool for navigating the challenges and opportunities that lie ahead.

1.1 Overview of the KHRC programs

The operational framework for KHRC programs adheres to the following outcomes outlined in the transitional operational plan (OP):

- i. Initiated people-based political mobilization and engagements with key governance processes.
- ii. Sustained strategic actions and responses to systemic human rights issues at all levels.

The programs are structured within three overarching thematic areas: Economic and Social Justice (ESJ), Inclusion and Political Justice (IPJ), and Institutional Support and Development (ISD). KHRC also expeditiously addresses human rights violations that traverse these three themes.



2. Key Achievements & Implementation Progress

KHRC accomplished 45 outcomes from April to December 2023, as outlined in the table below. A comprehensive breakdown of these achievements is presented in Annex 1. Concurrently, over the same period, KHRC and its collaborative partners issued a collective total of 29 press statements, with 20 being released between April and September and an additional nine in the last quarter. For a detailed monthly distribution of these press statements, please refer to Annex 3.

Demonstrating effective planning and execution, KHRC successfully implemented most of its planned activities during the reporting period. Out of the 85 key activities slated, only five were rescheduled for completion in the last quarter, as outlined in Annex 2.

Table 1: Distribution of outcomes across the action areas

Action Area	April - September	October - December
Inclusion and Political Justice	15	8
Economic and Social Justice	8	10
Institutional Support & Development	3	2
Total	25	20

The following sub-section discusses specific achievements per each outcome area.

2.1: Economic and Social Justice

i. Corporate accountability, business, and human rights

In November 2023, KHRC and SOMO released a damning report, laying bare widespread and systemic sexual exploitation, abuse, and harassment of women workers by senior management at Wildlife Works (WLW). WLW's leading carbon offsetting project, situated in the Kasigau conservation corridor in Taita Taveta County and catering to major corporations like Shell and Netflix, was exposed for engaging in egregious human rights transgressions. The report spotlighted the unsettling reality within companies involved in carbon credits and underscored the exploitation of local communities for their trade. In response to the revelations, WLW announced it terminated the employment contracts of two senior managers—the head of security and HR manager—implicated in the sexual abuse and exploitation of women workers within the Kasigau project. Subsequently, Verra, a prominent standard-setting and certifying company for climate action projects, mirrored the gravity of the situation. They suspended further credit issuances to WLW, acknowledging the significant impact of SOMO and KHRC's report. Verra

committed to maintaining the suspension until they concluded their investigations.

Similarly, KHRC, Transparency International-Kenya (TI), Kwale Mining Alliance (KMA), and Denyenye-Maweni CBO conducted an aggressive media campaign in November and December to expose human rights violations committed in Kwale by multinational corporations. Bamburi Cement PLC had enlisted G4S PLC and General Service Unit (GSU) officers to secure a piece of land in Denyenye, Kwale, claiming ownership. However, residents contested this claim, asserting their historical use of the land for gathering firewood for cooking and selling. The situation escalated as guards, at times accompanied by GSU officers, reportedly unleashed dogs on locals whenever they attempted to collect firewood. Disturbingly, the guards and GSU officers were accused of both physical and sexual assault. Denyenye-Maweni CBO and KMA reported three fatalities due to dog bites and police beatings, with dozens of women falling victim to sexual violence. In response to the expose, Bamburi Cement on November 7, 2023, announced it was launching an investigation into the reported abuses. The company confirmed the initiation of the probe in a letter addressed to the Star newspaper, one of the media outlets that partnered with KHRC to bring these violations to light. KHRC possesses a copy of this letter. Bamburi Cement's acknowledgment of the gross violations against the host community by its security personnel signifies a crucial first step towards addressing and rectifying the harm inflicted.

On the same breadth, KHRC with other partners fought efforts by corporates to water done the UN Legally Binding Instrument (LBI) developed by the Rights Council that seeks to regulate the activities of transnational corporations and other business enterprises. The corporates had tried to mutilate and capture the LBI; they wanted these instruments to become ineffective in achieving the intended goal of deterring them from propagating human rights violations and holding each accountable.

These accomplishments show the growing gains taken in advancing corporate accountability, building upon the foundation laid in the previous reporting period. During that time, KHRC, Ndula Resource Centre and Leigh Day, a UK-based law firm, exposed more human rights abuses, including deaths and violence, that were taking place at Del Monte pineapple farms in Kenya. Consequently, Tesco, a major UK retailer, on June 22, 2023, withdrew Del Monte products from its markets because of these violations.

ii. Public finance management

On July 5, 2023, KHRC and six other CSOs¹ filed a lawsuit against Kenya's National Assembly and the Attorney General over the Finance Act, 2023. The law, which we averred was unconstitutional, had added punitive taxes, making life unbearable for most Kenyans. On November 28, 2023, the court rendered its judgment, granting some of our prayers, including declaring the housing levy unconstitutional. However, the court stayed its judgment until January 10, 2024. Three judges of the court of appeal have since extended the stay until January 26.

iii. Land and resource justice

After a prolonged wait, the victims of the Solai Dam tragedy in November received a settlement of Sh47.2 million through an out-of-court agreement with the dam's owners. In May 2018, the Patel dam in Solai, Nakuru, broke, killing 47 people. Nine, including dam owners, faced manslaughter charges. KHRC represented 29 victims. On November 7, 2023, an out-of-court settlement was reached: dam owners agreed to pay Sh1.2 million for adult deaths and Sh800,000 for minors. KHRC oversaw this.

Separately, KHRC remained at the forefront providing leadership in the revamping and revitalizing the Haki Madini Kenya (HMK), which has continued to be a formidable coalition representing and supporting communities impacted by mining activities of large-scale companies. KHRC facilitated the coalition to host a national mining conference on November 14-16. The conference marked the launch of the coalition's 2024-2028 strategic plan, representing the culmination of a journey initiated in the preceding two quarters. This process, guided by KHRC's leadership, involved a comprehensive review of the document in September 2023. The strategic plan will provide HKM with judicious focus and be used for fundraising. Further, the coalition's website was revamped to enhance visibility and position HMK as strong, vibrant and responsive to emerging human rights concerns in the land and natural justice spheres in Kenya. The coalition remains the single most formidable outfit that is currently pushing for reforms, justice and accountability in the land and natural resources sector. Due to its revamped nature, the coalition continues to attract membership from reputable organisations dealing with land and natural justice. This organizations include the Thomson Reuters Foundation, Drylands Learning and Capacity Building Initiative, Pastoralist Parliamentary Group and Alliance of Civil society Organisations for Clean Energy Access (ACCESS). This is addition to partners such as Kwale Mining Alliance, Catalyste+, Kenya Chamber of Mines and International Alert, which had requested to join the coalition in the previous period (April and September 2023).

¹These CSOs are Katiba Institute, The Institute for Social Accountability (TISA), Transparency International Kenya, International Commission of Jurist – Kenya (ICJ Kenya, Siasa Place and Tribeless Youth.

iv. Policy influences on digital rights and justice.

On December 5, 2023, High Court stopped the rollout of the Universal Unique Personal Identifier (UUPI), commonly referred to as "Maisha Namba," and the digital identity card. This legal intervention resulted from a lawsuit, which KHRC in partnership with Katiba Institute and its partners launched. The case raised concerns about the absence of a comprehensive policy and legal framework in Kenya to govern the digital ID system.

2.2 Inclusion and Political Justice

i. Political governance

During the reporting period, President Ruto issued the first State of Nation address, on November 17, 2023, highlighting achievements he made during his first year in office. His speech, however, came two months later, contrary to Article 132 (1) of the Constitution, which mandates the President to address Parliament annually and provide a comprehensive report on the measures taken and progress achieved in realizing national values and principles of governance. Unfortunately, Ruto's speech did not reflect the reality in the country. In press release, KHRC raised several governance issues that Ruto conveniently ignored to address:

- 1. Lack of integrity in public finance management.
- 2. Increasing human rights violations, insecurity, and misuse of police for political interests.
- 3. Failure to meet constitutional provisions on inclusion and non-discrimination in executive appointments.
- 4. Shrinking space for democracy and citizen participation, evidenced by disregarding public input in legislative processes.
- 5. High cost of living, rising public debt, and Executive influence on the Judiciary.

On September 18, KHRC, Muslims for Human Rights (MUHURI), and activist Khelef Khalifa filed a lawsuit against Inspector-General of Police Japheth Koome over the 2017 police shootings and violence during election-related demonstrations that resulted in 33 fatalities in Nairobi. The petition sought command responsibility for the deaths, highlighting Koome's role as the police commander in Nairobi at the time. Following the filing of the case, KHRC observed a notable reduction in the police's brutal response to demonstrators between October and December 2023. This contrasted with the harsh tactics witnessed during the anti-tax hike protests in April to July 2023. During this later period, various protests occurred nationwide, including those in response to the killing of Meru blogger Daniel Mwathiani. Interestingly, Koome was in



command of the police during both contrasting periods.

ii. Transitional justice: Sustaining remembrance and keeping memories alive.

KHRC has played a critical role in promoting transitional justice and memorialization interventions with members of the Mau Mau Veterans Association (MMVA), who played an instrumental role in Kenya's liberation struggles and political milestones. A great milestone was realized on November 8 when KHRC, in partnership with the MMWVA supported the launch of the Mau Mau Freedom Fighters Foundation, Mau Mau Freedom Fighters website, and Mzee Githu Wa Kahengeri memoir titled, "The Betrayal of the Mau Mau Freedom Fighters". The website will be a repository where future generations can easily access historic recordings regarding those who contributed to Kenya's liberation struggle. Significantly, the foundation now stands as an inspiration to many Kenyans and is a living testament to the indomitable spirit of brave men and women who fought for Kenya's independence during the tumultuous period of the Mau Mau uprising in the 1959.

In another significant development, the British government exhibited a commitment to addressing historical injustices following an open letter that KHRC sent to her High Commission in Kenya on October 29, 2023. The letter highlighted critical human rights violations during the colonial rule (1895 to 1963), including land alienation, gross human rights violations by British corporations, neocolonialism, and human rights violations by the British Army Training Unit in Kenya (BATUK). These achievements are essential for two main reasons. Firstly, KHRC has played a crucial role in shaping public discourse around colonial atrocities and maintaining pressure on the British government to address past human rights violations. Secondly, the willingness of the British government to engage with communities that suffered past atrocities signifies a crucial step toward addressing historical and social injustices inflicted on Kenya.

During the reporting period, another noteworthy accomplishment was the persistent pursuit of reparations for historical injustices in Machakos, which KHRC and its partners led. This campaign gained momentum as the Parliament's Justice, Legal, and Human Rights Committee committed to developing a legal framework to address past historical injustices, acknowledging the absence of such legislation in the country. A petition, presented in the Senate on October 3, 2023, through Machakos Senator Agnes Kavindu, led to a hearing on November 3, 2023, at Ngelani chief's camp in Machakos, facilitated by the Senate Committee on Justice, Legal, and Human Rights. Muindi Mbingu Foundation, KHRC, the Office of the Attorney General, and the Department of Justice made submissions during the

hearing. The committee further urged President Ruto and King Charles III to explore avenues for ensuring justice and adequate compensation for affected communities. The petition was directed at King Charles because it came shortly after his visit to Kenyan and due to atrocities the colonial British government meted out on Ngelani people.

iii. Civic space and security injustices.

In addressing shrinking civic space and curbing excesses by state enforcement agencies, KHRC was actively involved in sustaining public conversations that advocated for reviewing repressive legislation. This effort included facilitating high-level meetings between the state and CSOs to foster an environment conducive to the operation of civic actors. An illustrative example was the third Civic Space Summit, which KHRC and Civic Freedom Forum (CFF) members convened in Kisumu from November 1-3, 2023. The summit provided a crucial platform to reflect on the state of civic space in Kenya, and it has since sustained public conversations that emphasize the necessity to revise repressive legislation that blocks the enjoyment of fundamental rights and freedoms. One notable outcome of the summit was the political commitment from the Kisumu and Siaya county governments to continue collaborating with civil society actors in creating an enabling environment.

iv. Minorities rights: LGBTI, stateless, refugees, women, youth among others.

Under KHRC's leadership in addressing statelessness in Kenya, approximately 4,000 Pemba, Shona, and Nubian community members started enjoying government services. This positive outcome materialized when they were issued identification cards, subsequently integrated into the Integrated Population Registration System (IPRS) and e-citizen platforms on October 24. This integration marked a crucial milestone, allowing these individuals to access essential government services. Despite possessing ID cards, these community members initially faced challenges as their information had yet to be incorporated into the IPRS, rendering the cards nonfunctional. KHRC played a pivotal role in addressing this issue by engaging the Cabinet Secretary for Interior, Kindiki Kithure, and National Assembly Majority Leader, Kimani Ichungwah. This successful resolution followed an eight-year-long journey, during which KHRC, alongside partners such as Haki Centre and UNHCR, worked tirelessly with over 7,000 members of the Pemba community to advocate for their citizenship.

Moreover, there has been a notable advancement in recognizing refugee identification documents, with critical features now incorporated into the government's digital platform, e-citizen. This progress led to a historic moment on November 1 when the

Kenyan government officially gazetted refugee identification to access government services. This marked the first time the government formally acknowledged documents such as asylum seekers' passes, proof of registration, movement passes, refugee identity cards, letters of recognition, and conventional travel documents. Refugees could now use these documents to identify themselves and access over 5,000 government services through e-citizen. The formal declaration of these documents as Refugees Identification Documents resulted from numerous advocacy initiatives spear headed by KHRC over the past two years.

Additionally, in the face of a shrinking space for individuals with different sexual orientations, KHRC assumed a leadership role in confronting the anti-rights movement and advocating for the protection of the rights of sexual minorities in the country. On May 5, KHRC, along with 30 other CSOs, issued a press statement highlighting the threat to the right to association for LGBTQ persons and demanded that Kenyan authorities safeguard this fundamental freedom. This advocacy response was prompted by threats issued by political leaders to the LGBTQ community and the surge in anti-LGBTQ sentiments observed in the preceding quarters.

During the reporting period, the US government reinstated the reauthorization of PEPFAR funding to Kenya for the fight against HIV and Tuberculosis. The funding had been temporarily halted by the US Congress in June 2023, following a letter signed by nine Kenyan MPs and several Catholic Bishops, urging the cessation of PEPFAR money to the country. The letter contained false claims, asserting that PEPFAR funding supported abortion. In response to this, KHRC and other CSOs intervened, and on November 23, KHRC received a response indicating that Kenya would continue to benefit from PEPFAR funding. The resumption of these funds is pivotal in enhancing access to health services, particularly for HIV treatment and Sexual Reproductive Health Rights (SRHR), providing crucial support to vulnerable and marginalized groups.

Furthermore, during the "Save a Woman Fistula" fundraiser dinner held on 3rd November 2023, where KHRC participated, the Nairobi woman representative, Esther Passaris, pledged to engage with the Health CS Susan Nakhumicha to review the Universal Health Coverage (UHC) Bill and ensure its incorporation of the health needs of women suffering from fistula. This commitment marked the first time such a high-level commitment was made by a member of the National Assembly, highlighting the impact of KHRC's advocacy efforts in addressing women's health issues.

2.3 Urgent response to emerging human rights issues

KHRC swiftly responded to urgent human rights violations that emerged in the country

during the last quarter. Firstly, there was a pressing need to address the real threat to the freedom of association for the LGBQT community. This concern arose due to careless utterances and threats by certain politicians, prompting KHRC to call on state agencies to uphold the constitutionally enshrined freedom of association.

Secondly, KHRC and Mazingira Institute responded to the brutal eviction of families in Athi River by East African Portland Cement (EAPC), even in the absence of a court order. Through media address, we sought to bring attention to this unjust action and advocate for the rights of the affected families. The two organizations filed a lawsuit on October 19 to stop the eviction even though the court declined to issue order stopping the evictions despite our spirited efforts. The case was consolidated with another case filed by the County Govenment of Machakos and awaits directions. The matter was set for a hearing in March 2024.

KHRC also responded to the third urgent matter involving the eviction of the Ogiek people from Mau Forest. During Tree Planting Day on November 13, KHRC and Ogiek People's Development Project issued a statement questioning the government's sincerity in conserving the environment. Yet, it was evicting the same community that was integral to keeping Mau and Elgon forests secure.

Lastly, KHRC addressed the incompetence demonstrated by the Office of the Director of Public Prosecution (ODPP), leading to the controversial collapse of the Sh63 billion Arror and Kimwarer dam cases. This highlighted concerns about the potential capture of independent institutions, such as the ODPP, by the Executive.



Institutional Support & Development (ISD)

3.1. Key Outcome Areas

In line with its commitment to sustainability, KHRC is in the final stages of completing the construction of an office block and aims to occupy the space before the conclusion of the last quarter. During the reporting period KHRC was able to attract additional grant support from her existing and new partners thus increasing our ability to effectively roll out strategies for the remainder of the year.

KHRC has also experienced enhanced visibility of its work across mainstream and social media platforms. These outcomes reflect KHRC's focused initiatives in recruiting and equipping staff in critical areas, contributing to the fulfilment of its core mandate.

Constraints, Opportunities and Lessons Learned

4.1. Challenges and how they were mitigated

	Challenges/bottlenecks	How they were mitigated?
1.	Corporates implicated in human rights violations are fighting back to counter these accusations.	We are fostering partnerships at various levels. This has been useful in spreading risks.
2.	The lack of political goodwill from duty bearers due to vested interests has hampered access to justice.	Engaging and creating strategic partnerships with like-minded duty bearers have been key in advancing our agenda.
3.	CSOs Network dynamic: Management of some partnerships proved problematic, resulting in delays in implementation of advocacy strategies.	Consistent follow ups and flexibility in planning have been key in ensuring a multi-faceted approach to advocacy.
4.	Delays in disbursement of resources impacted on the timely implementation of activities.	Continuous communication with development partners has been key for flexibility.
5.	Slow uptake and adoption of the M& E tools	Continuous capacity strengthening through regular programmatic review meetings

4.2. Lessons learnt and best practices

- 1. We have recognized the importance of diverse planning and maintaining flexibility to effectively respond to the ever-changing implementation context.
- 2. Consolidating CSOs to speak with one voice when defending human rights is urgent.
- 3. There is strength in strategic partnerships in addressing governance and human rights issues.
- 4. There is power in collective action. Working in coalitions and movements offers the opportunity to achieve quick wins on urgent matters in governance and human rights.
- 5. Media practitioners and houses are willing to engage and report on governance and human rights issues. Their participation provides a broader reach and facilitates the dissemination of information.
- 6. The Kenya Kwanza regime's sustained attack on the media has unintentionally provided CSOs an ally and partner in advancing the governance and human rights agenda.



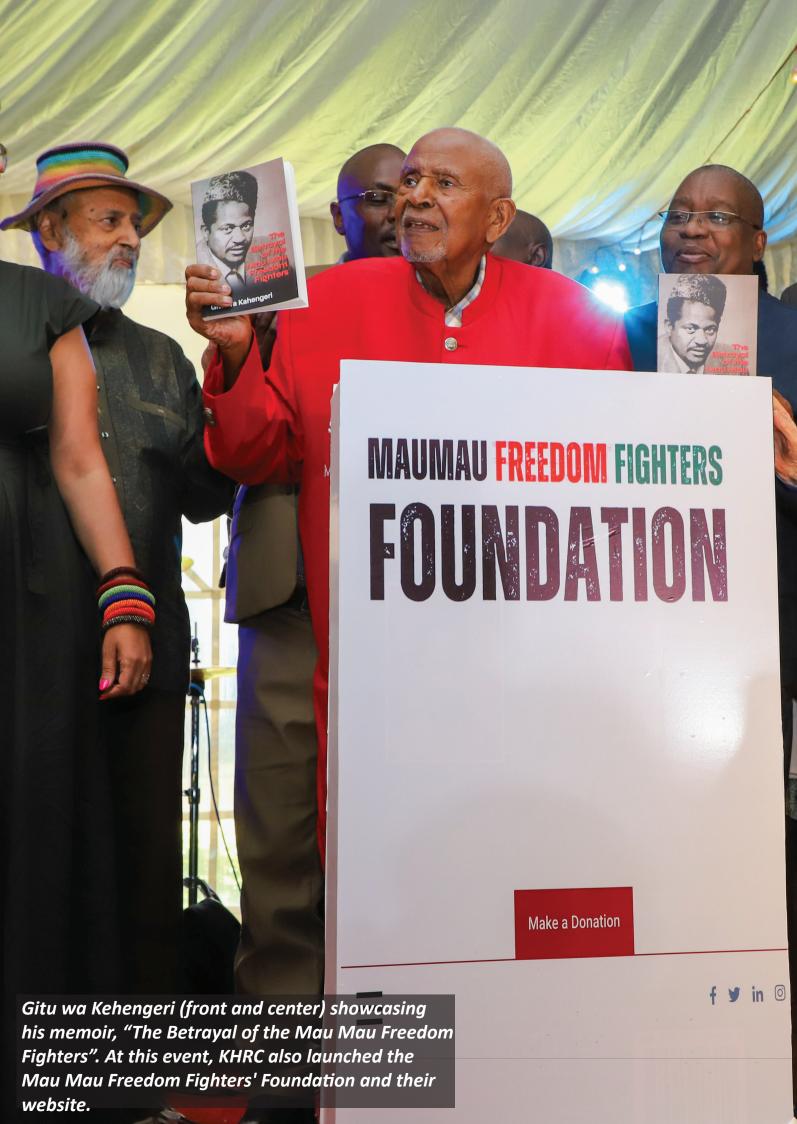
5. Conclusion and Recommendation

5.1: Conclusion

It is crucial to reflect on the reported achievements and outline key measures that will inform the development of the next operational plan (OP) and strategic plan. The current trends and performance of planned activities indicate that the implementation is on track, and there is confidence that KHRC will achieve the expected results successfully.

5.2. Recommendations/Way forward

- 1. Fastrack delayed activities and continuously collect and collate outcomes that are directly attributable to and influenced by KHRC work.
- 2. Continuous monitoring is essential to determine the impact of press releases, petitions, and protests, ensuring they are influencing the desired changes and contributing to the reported outcomes.
- 3. There is a need for continuous sensitization and the provision of capacity building, along with individualized support for Monitoring and Evaluation (M&E) processes to succeed.



6. Annexes

Annex 1: Database of draft outcomes harvested between October-December 2023 Period.

Link: https://shorturl.at/eRUW0

Annex 2: Implementation progress April-September 2023 Period Link: https://shorturl.at/apQW4

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

Link: https://shorturl.at/rLTUZ



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