



KNOWLEDGE PRODUCT
ON

MONITORING AND **RESPONDING** TO HUMAN RIGHTS **VIOLATIONS**



MINISTRY OF FOREIGN AFFAIRS
OF DENMARK
Denmark in Kenya



Uraia

Acknowledgment

This publication came together through the combined efforts of a dedicated team. Davis Malombe provided the policy direction that shaped its strategic focus. Cornelius Oduor offered an overall review and supervision that safeguarded the publication's quality and integrity. Martin Mavenjina and Jerameel Odhiambo coordinated the assembly of content and ensured it flowed as a coherent narrative. Ernest Cornel Oduor handled the editing and guided the design and layout, sharpening clarity and visual appeal. We also thank the Danish International Development Agency (DANIDA) and the Uraia Trust for financing the production and publication of this work.

Foreword

from the Executive Director

The Kenya Human Rights Commission (KHRC) pioneered human rights monitoring and response in the country, drawing inspiration from international human rights law and leading global organizations such as Human Rights Watch and Amnesty International. We began with quarterly human rights reports and later transitioned to bi-annual reporting. These have been complemented by topical and thematic studies, both desktop and field-based, anchored in robust human rights and social science research methodologies.

Over the years, we have produced numerous insightful reports that have strengthened our advocacy and research work, while reinforcing our leadership in national and transnational governance and human rights spaces.

This framework is presented on this solid foundation. It seeks to enhance political consciousness, evidence-based knowledge, and rights-based documentation and responses to systemic and gross human rights violations and governance failures—both historical and emerging. Our rich experience informs this framework and is grounded in academic and practical references.

The document is structured around two main components. The first is about understanding human rights, while the second is about monitoring, documenting, and reporting violations. The understanding of human rights section introduces fundamental concepts of human rights, the relevant instruments, state obligations, and the nature of violations. It lays the groundwork for understanding the roles, responsibilities, and duties associated with human rights protection and promotion. The core of the framework is the monitoring, documentation, and reporting of violations. It outlines key definitions, considerations, and a step-by-step

guide for effectively identifying, verifying, and documenting human rights violations.

In addition, this document contains several annexures that serve as practical tools and reference materials. These include:

1. Interview guidelines and checklist
2. Simplified monitoring and reporting tool
3. Fact-finding mission guidelines
4. Guidance on resourcing responses to emerging human rights issues
5. Key international human rights instruments
6. A case study of KHRC's engagement on the Solai dam tragedy
7. References and resource materials

At the heart of our methodology are six essential research and truth-seeking questions:

1. Who was involved? Who are the victims, perpetrators, and witnesses?
2. What happened? What is the timeline? Have similar incidents occurred before?
3. Where did the incident occur?
4. When did the incident take place?
5. Why did the incident occur? Were there warning signs?
6. How did authorities respond? Was anyone held accountable?

To confirm whether a human rights violation has occurred, the following three considerations must be addressed:

1. Does the alleged violation fall within the scope of our organizational mandate?
2. Does the incident violate domestic laws and international human rights standards?
3. Is there sufficient evidence to prove a violation occurred? If not, what is missing?

Once a violation is confirmed, the next step is to assess whether it is part of a systemic pattern. This involves examining:

1. Whether there are multiple similar cases
2. Whether violations occur in the same geographic area
3. Whether victims share characteristics (e.g., ethnicity, religion, political affiliation)
4. Whether perpetrators come from the same group (e.g., a specific security agency)
5. Whether authorities respond consistently (e.g., inaction, cover-ups, arrests)

The intended outcomes of this framework include:

1. Providing immediate assistance to victims
2. Pursuing justice and redress for affected individuals and communities
3. Driving legal, policy, and institutional reforms aligned with international standards
4. Influencing behavioral and attitudinal change among authorities and duty bearers

Our Urgent Action Strategy provides further details on information sources, intervention strat-

egies, and resource mobilization mechanisms for sustaining our research and response work. One of our greatest achievements has been our ability to mobilize support from project grant-makers for unanticipated but urgent human rights situations. This flexibility and resilience have enabled KHRC to respond effectively to grave injustices over time and across regions.

A compelling case study of this is our sustained pursuit of truth, justice, and accountability following the Solai dam tragedy of May 2018, which reflects the achievements and challenges of our documentation and advocacy work in the field.

Violations are increasingly frequent and require continuous, urgent attention in the context of deepening impunity. Due to the structural and systemic issues at their root, some evolve into long-term struggles. With these reflections, I invite and challenge our readers, partners, and fellow human rights defenders to engage with this framework fully and faithfully. Let it guide our collective efforts to protect, document, and respond to human rights violations with integrity, courage, and commitment.

Davis Malombe,

Executive Director,

Kenya Human Rights Commission (KHRC)

2025

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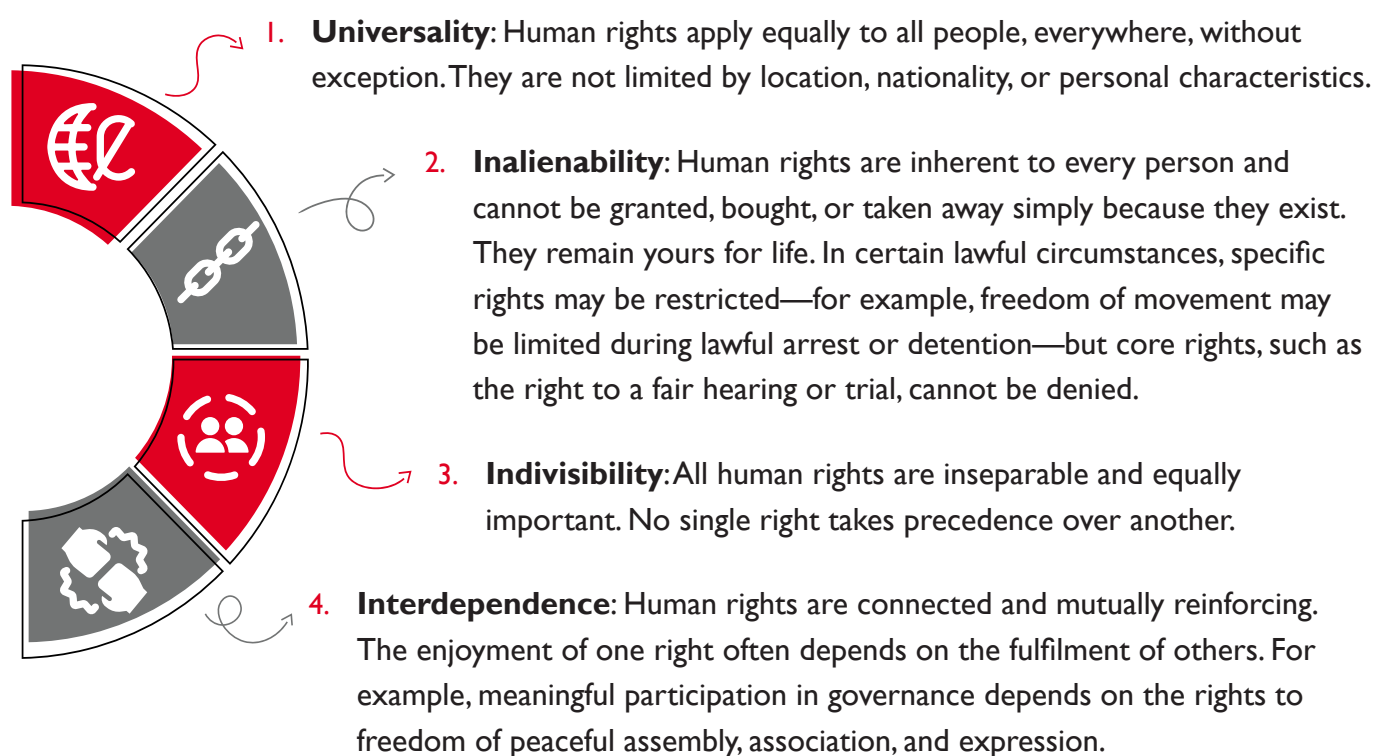
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1.0 Understanding of human rights, human rights instruments, obligations, and violations

1.1 What are human rights?

Human rights are the basic rights and freedoms that belong to every person simply by virtue of being human. They are inherent to all individuals, regardless of sex, social status, colour, ethnic origin, religion, language, nationality, or other characteristics. The concept of human rights rests on the principle that every person is born with these rights and is entitled to enjoy them fully and equally, without discrimination.

1.2 Characteristics of human rights



1.3 Human rights instruments

Every government has a duty to protect and promote the basic human rights of its citizens, as expressed and guaranteed by law. Human rights laws are found in treaties¹, customary law, general principles, and national and international legal frameworks. National, regional, and international human rights laws or instruments set out obligations for governments to take specific actions or refrain from certain acts to uphold and safeguard these rights. For more details, see Annex 6.

¹ Once a state has ratified any fundamental human rights treaties, by way of signature, it assumes legally binding obligations and duties under the law to respect, protect, and uphold human rights.

1.4 State obligations

Under international human rights law, states have three primary levels of obligation: respect, protection, and fulfillment. Under the obligation to respect, the state must refrain from actions that violate, or have the effect of violating, the rights of individuals. Obligation to protect demands that the state and its agents safeguard individuals from rights violations committed by other individuals, private entities, or non-state actors. Where violations occur, the state must act promptly to prevent further harm and ensure victims can access effective legal remedies. The obligation to fulfil demands the state to take positive measures to ensure the full realization of rights. This includes enacting appropriate laws, creating effective and accountable grievance mechanisms, and guaranteeing individuals and groups the opportunity to seek redress when their rights are violated.

While states bear the primary responsibility for upholding human rights, non-state actors, such as private companies and transnational corporations, also have a duty to avoid actions or policies that infringe upon these rights. At an individual level, we each have a responsibility to respect and support the realization of the rights of others.

1.5 Human rights violations

Human rights violations refer to governmental breaches of rights guaranteed under national, regional, and international human rights law. They include acts or omissions directly attributable to the state that result from a failure to implement legal obligations derived from human rights standards.

Violations occur when a law, policy, or practice deliberately contravenes or ignores the state's obligations, or when the state fails to meet a required standard of conduct or result. Additional violations arise when a state withdraws or dismantles existing human rights protections.

The term human rights abuse is broader than *violations* and encompasses harmful conduct by non-state actors, such as individuals, institutions, and corporations, that infringes upon human rights.

2.0 Monitoring, documentation, and reporting of violations

Monitoring, documenting, and reporting is the systematic and active process of collecting, analyzing, and disseminating information on human rights violations for use by concerned and interested parties. It is central to the work of human rights actors, with each component addressing a distinct aspect of the process.



1. **Monitoring** is the long-term observation and analysis of the human rights situation within a specific area or community.



2. **Documenting** involves assessing individual allegations and examining the broader evolution of the human rights situation. This includes identifying trends and patterns, processing findings into reports, and recording and securely storing the information.



3. **Reporting** entails disseminating findings to relevant audiences, such as government institutions, national or international human rights bodies, and the public.

Human rights monitoring, documentation, and reporting generally serve the following purposes:

1. Providing immediate assistance to victims by delivering timely support to those affected.
2. Seeking redress and remedies by ensuring justice and accountability for violations.
3. Changing policies and laws by advocating for reforms that align with international standards and pressing governments to comply with treaty obligations.
4. Changing behavior and attitudes of authorities by encouraging duty bearers to respect, protect, and uphold human rights.

2.1 Human rights monitoring

2.1.1 Key principles for consideration



1. **Do no harm**

While human rights monitors may not have the capacity to guarantee the safety of victims, their primary duty is to protect victims and those providing information on violations. Informants often take great risks in sharing information, and monitors must ensure they do not endanger their lives or those of victims.



2. **Understanding and respecting the mandate**

Before undertaking any monitoring work, individuals must fully understand the scope, purpose, and limits of their assignment. Respecting the mandate helps prevent overstepping boundaries and ensures the integrity of the monitoring process.



3. **Widespread consultation**

Human rights monitors should consult broadly with trusted individuals or organizations that understand the local dynamics. Such engagement can provide valuable context, strengthen investigations, and improve the quality of findings.



4. **Respect for authorities**

Monitors are not in competition with authorities and should avoid adversarial postures. Since the actions or inaction of authorities often impact the success of human rights work, it is essential to engage with them respectfully, viewing them as potential partners in securing justice for victims.



5. **Neutrality**

Remaining impartial and avoiding favoritism or bias enhances the credibility of investigations. Monitors must guard against prejudice when collecting and analyzing information on violations.



6. **Precision**

Reports must be accurate, reliable, and based on verified information. Inaccuracies can undermine the credibility and effectiveness of the monitor's work.



7. **Confidentiality**

Informants must trust that the information they share will be kept confidential. Without this assurance, they may withhold critical details. Protecting the identity and safety of informants is a key responsibility of monitors.



8. **Conspicuousness**

Being visibly present and accessible at critical moments can reassure victims and informants that their cases are being actively pursued. Both communities and authorities should be aware of the monitor's role and mandate.



9. **Sensitivity**

Monitors must respect and adapt to the cultural and environmental context in which they operate, while also showing empathy toward victims and understanding their circumstances.

2.1.2 **What type of information should monitors collect?**

Human rights monitoring involves gathering information about incidents, observing events (such as elections, trials, and demonstrations), visiting relevant sites (including detention and refugee camps), engaging in discussions with government authorities to obtain information and pursue remedies, and undertaking other immediate follow-up actions. The term also covers evaluative activities at the level of United Nations, as well as first-hand fact-gathering and fieldwork. Monitoring typically occurs over an extended period, giving it a temporal quality that enables the identification of patterns and trends.

Monitoring is essentially the long-term observation and analysis of the human rights situation within a specific area of operation. Its aim is to understand trends, prevalence, and emerging issues so that informed decisions and strategic action can be made. Monitoring includes systematic collection, verification, and use of information to reduce and prevent human rights violations.

The ultimate purpose of monitoring is to improve the human rights situation. Its key objective is to reinforce the state's responsibility to protect human rights and create an environment that fosters respect. A human rights monitor should collect various information to comprehensively assess the situation in their area of operation, as explained below.

Contextual information	<p>Historical context</p> <ol style="list-style-type: none"> 1. Economic indicators such as unemployment rates, economic growth trends, and key economic policies. 2. Social indicators like access to healthcare and education, and overall quality of life. 3. Demographic data covering population size, age distribution, and the presence of refugees or internally displaced people. 4. Possible sources of information like government and NGO reports, academic research, and credible media coverage.
Political information	<ul style="list-style-type: none"> → Nature of the political system such as structure, governance style, and degree of political openness. → Role of security forces, including their functions, influence, and relationship with civilian authorities. → Political tensions and conflicts; sources, actors involved, and current dynamics. → Ethnic cleavages like divisions and their impact on political and social stability. → Electoral patterns like voting trends, fairness, and credibility of electoral processes. → History of human rights violations like past patterns, severity, and state or non-state involvement. → Possible sources of information like political speeches, NGO and international organization reports, and credible media outlets.
Legal and constitutional information	<ul style="list-style-type: none"> → International conventions and treaties ratified by the government. → Important court cases involving landmark rulings with significant legal or human rights implications. → Relevant constitutional provisions like sections that define rights, freedoms, and legal protections. → Laws involving statutes and regulations that govern rights and justice. → Possible sources of information like court documents, legal practitioners, police records, media reports, and organizations working within the justice system.

2.1.3 Tips for monitoring

1. Know the law and understand national and international human rights instruments to identify violations and state obligations.
2. Be familiar with accountability systems, including grievance mechanisms and how to access them.
3. Set clear objectives by defining priorities, issues, and geographic scope based on available time and resources.
4. Build strong networks by collaborating with credible human rights organizations to share skills and resources.

5. Maintain reliable contacts and regularly update your network of informants to ensure timely alerts on incidents.
6. Provide a simple reporting format to your contacts to make documentation easier and more consistent.

2.1.4 Contact building

An essential aspect of human rights monitoring is establishing a broad and reliable network of contacts or informants who consistently provide information or reports on incidents related to human rights violations. A well-developed network enables monitors to access information from communities that are not continuously present. Because these contacts are either from the community or hold specific positions, they may have access to information that would otherwise be unavailable to the monitor.

The larger and more diverse the network, the more credible the information will be. Relying on a single source may compromise accuracy; however, a wide pool of contacts allows monitors to verify details and cross-check facts before documenting or reporting.

Maintaining contacts in operation also strengthens security by creating a safety network. This network can alert monitors to rising tensions or warn them of potential threats to their safety or that of their informants. For maximum reach, contacts should represent different sectors and segments of society. Possible sources include:

1. Local, national, or international NGOs
2. Religious institutions
3. Public officials
4. Security agencies
5. Members of political parties
6. Community development associations
7. Media organizations
8. Vigilante groups
9. Trade associations, marketers' associations, or unions

10. Women's groups
11. Youth groups

2.2 Human rights documentation

When human rights violations occur, it is essential to capture an accurate and timely account of the incident. Such documentation can serve as evidence in legal proceedings or as part of efforts to identify and track trends in human rights violations.

Documenting involves assessing individual allegations, analysing the broader human rights situation, identifying emerging patterns, compiling information into a report, and recording and securely storing the collected data.

2.2.1 Guidelines for analysis

The following questions should guide your analysis:

1. Does the alleged human rights violation fall within the scope of my organization's work? If it does, you will proceed with fact-finding. If it does not, refer the case to other human rights organizations that handle such matters.
2. Does the allegation or incident constitute a human rights violation? In other words, does it breach international human rights standards or domestic laws?
3. Do you have sufficient evidence to prove that a human rights violation occurred? Identify what is missing. For example, you might need to visit a police station to see the alleged victim or go to a hospital to speak with them if they have been admitted.

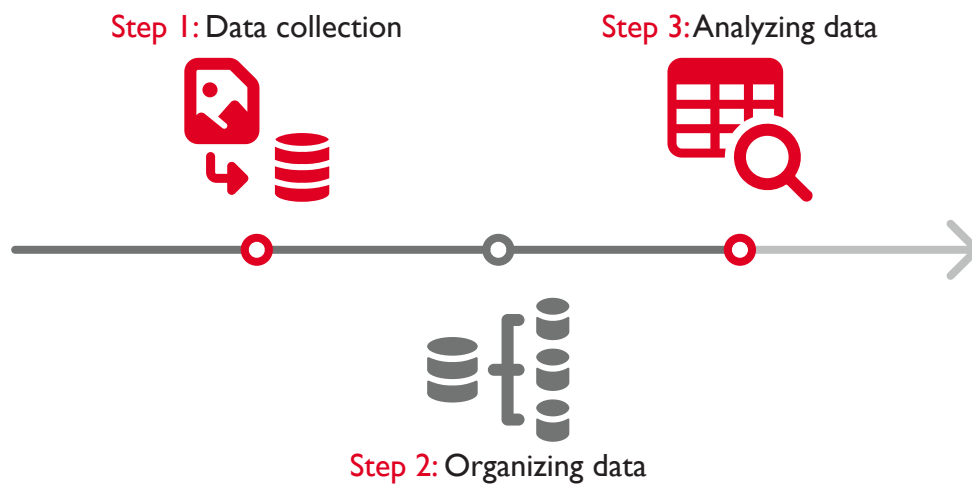
This is how you can determine the validity of data:

1. Assess the likelihood that the evidence is valid. If you have already gathered information, such as from eyewitnesses, ask yourself whether it is credible.
2. Cross-check eyewitness accounts. Are the testimonies consistent? Do they contradict each other?

3. Verify material evidence. For example, review medical reports. If you doubt the accuracy of an official report, seek a second opinion.
4. Compare the allegation with existing knowledge. If you have limited material evidence or testimonies, assess whether the allegation aligns with established patterns or facts you know about similar human rights violations.

2.2.2 Steps for documentation

Documentation involves data collection, organization, analysis, and compilation of shared information with relevant authorities.



Step 1: Data collection

When a human rights monitor is informed of an incident or report of a human rights violation, the first step is fact-finding. This involves gathering information to confirm or refute that the incident occurred, and determining whether a violation occurred and, if so, what type. Key questions to guide data collection include:

1. Who was involved? Who are the victims, perpetrators, and witnesses?
2. What happened? What was the timeline? Have similar incidents happened before?
3. Where did the incident occur?
4. When did it occur?
5. Why did it happen? Were there warning signs or contributing events?
6. How did authorities respond? Were arrests made?

The methods used will depend on the type and complexity of the violation. Possible methods include:

1. **Missions:** Traveling to the site of the incident, either short- or long-term, to gather information.
2. **Observation:** Monitoring events, trials, elections, or demonstrations to ensure proper conduct (e.g., watching security forces at rallies or inspecting prison conditions).
3. **Interviews:** Speaking with victims, eyewitnesses, or community authorities.
4. **Site visits:** Visiting the scene to observe conditions.
5. **Surveys:** Gathering data from a broad group to understand the frequency or context of violations.
6. **Focus group discussions:** Discussing incidents with small groups (8–10 people) to piece together different perspectives.
7. **Audio-visual evidence:** Taking photos or videos to strengthen credibility.

Step 2: Organizing data

A consistent and secure system for organizing collected data is essential. Using standard templates (e.g., interview checklists, mission or site visit reports) ensures uniformity and facilitates later analysis.

Data security must be a priority. Information should be stored to be accessible to authorized team members and protected from threats. For example, if authorities seize files, they could gain information that puts victims or informants at risk. Develop strategies to safeguard sensitive data against such risks.

Step 3: Analyzing data

Once data is collected and organized, the next step is analysis, which involves examining whether the incident qualifies as a human rights violation. This requires comparing all available facts with international human rights standards, humanitarian conventions, and domestic laws to determine whether a clearly defined right was violated. Ensure all information is valid and verified.

After confirming a violation, assess whether it is part of a broader pattern or trend:

1. Is this one of several similar cases?
2. Are violations concentrated in a specific location?
3. Is there a recurring pattern in the victim's identity (e.g., religion, ethnicity, political affiliation)?
4. Is there a recurring pattern in the perpetrator's identity (e.g., specific security forces, armed groups, individuals)?
5. Is there a consistent authority response (e.g., detaining victims, ignoring cases, questioning or arresting perpetrators)?

Identifying patterns may help explain why violations occur and can point to systemic issues. This often involves consulting other human rights actors to compare findings across different areas.

2.3 Human rights reporting

The purpose of reporting the information gathered is to share findings in a way that prompts affirmative action, whether as a preventive measure or as a response to violations. Reports on human rights violations may take different forms, but before writing, it is important to consider several critical questions:

1. What must be proven and highlighted?

Every report must provide evidence that the alleged violation truly occurred. The message should be clear, whether to emphasize a pattern of impunity, violence, indifference, or lack of progress.

2. What is the main objective of the report?

A human rights report should have one or more clearly defined objectives, such as securing redress for victims, promoting policy changes, drafting or implementing new laws to prevent future violations, mobilizing public opinion, and applying pressure on the government or perpetrators.

3. Who is the target audience?

Identify whether your report is aimed at government bodies, the media, the public, the international community, other NGOs, or a combination. The audience will shape the structure, tone, and level of detail.

4. How will findings be presented persuasively and credibly?

Arguments and facts must be logical, convincing, and supported by credible evidence. A common structure might include:

1. Political, historical, or economic context
2. Methodology used to gather facts
3. Description of the incident
4. Nature of the human rights violation
5. Identity of victims (unless confidential)
6. Alleged perpetrators and/or role of authorities
7. Recommendations for action

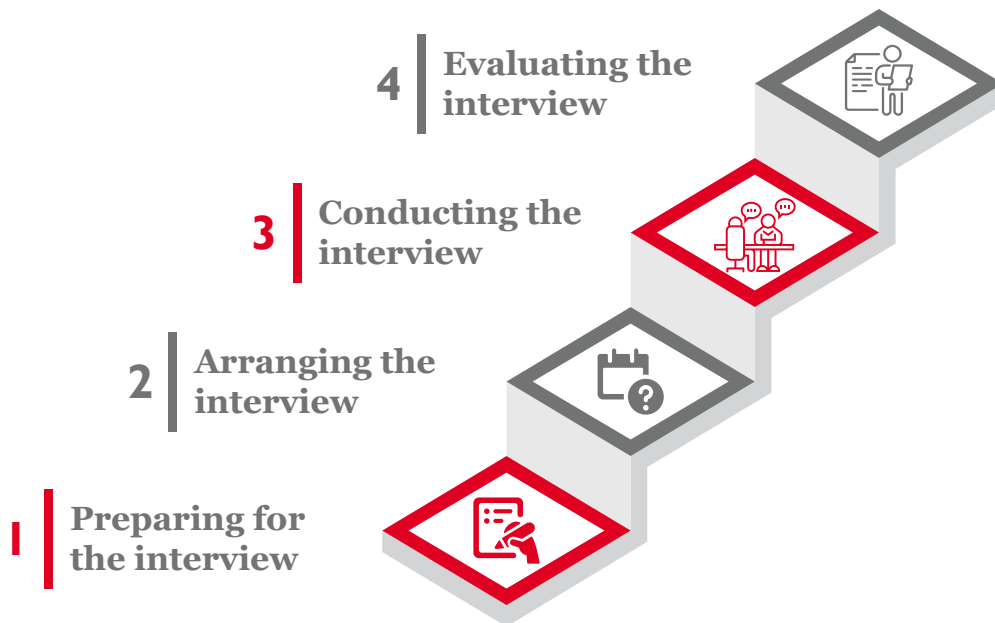
A strong human rights report should be:

1. Concise and clear by keeping it short and simple.
2. Accurate and precise by ensuring all information is verified.
3. Timely. Produce reports with urgency unless releasing them would risk provoking violence.
4. Neutral in language. Avoid emotional or biased terms that undermine impartiality.
5. Action-oriented. A report should lead to action, not be an end in itself. Recommendations should be practical, targeted, and based on the assessed situation.

3.0 Annexures

3.1 Annexure 1: Interviewing guidelines

These guidelines build on the documentation steps explained earlier. Interviews are the most common, and often the most effective, tool in a monitor's toolbox for collecting information on human rights violations. But a good interview involves more than simply asking questions. A monitor should enter the interview knowing what information they need, which questions to ask, how to follow up effectively, and how to treat interviewees, many of whom may have experienced or witnessed trauma, with respect and care.



3.1.1 Step 1: Preparing for the interview

Half the work of a successful interview happens before it begins. Going unprepared risks missing key questions and losing valuable information. You must identify your objectives and create a checklist of questions. Writing questions in advance helps you stay focused, maintain structure, and ensure nothing important is overlooked.

Key questions at this point include: What do I still need to know about the incident that the interviewee can provide?

3.1.2 Step 2: Arranging the interview

When setting up the interview, keep these points in mind:

1. **Timing:** Conduct the interview as soon as possible after the incident. Delays can cause key details to fade from memory.
2. **Introduce yourself and state the purpose.** Ensure the interviewee understands why the interview is being conducted and how the information will be used.
3. **Participation must always be voluntary.** The interviewee should know they can refuse to participate or answer specific questions.
4. **Choose a secure, safe, discreet, and comfortable location** for you and the interviewee.
5. **Unless given explicit permission, do not use information that could identify the interviewee.**

3.1.3 Step 3: Conducting the interview

During the interview, remember to:

1. Ask clarifying and follow-up questions. Go beyond your checklist when needed to explore important points.
2. Record accurately. Take detailed notes and, with permission, use a voice recorder. Explain any risks involved with recording.
3. Capture direct quotes. They are more credible and personal than summaries.
4. Ensure comfort and autonomy. The interviewee should know they can skip questions or stop at any time.
5. Review your checklist. Before ending, make sure all essential questions have been covered.

3.1.4 Step 4: Evaluating the interview

After the interview, reflect on the process to refine your skills and plan next steps. Some of the key questions at this stage are:

1. Did I get all the information I needed?
2. Did I miss any important questions?
3. Did new leads or information emerge that require follow-up?
4. Did the interview confirm or challenge what I already know?
5. Is there information that needs verification?

Based on your evaluation, you may need to re-interview the same person or identify new sources to gather additional details.

3.2 Annexure 2: Interview checklist

The interview checklist is built on the documentation steps explained earlier.

Interview details	Name of interviewer(s)
Location of interview	
Date and time of interview	
Personal details	<ul style="list-style-type: none">→ Full names→ Date of birth→ Sex→ Address and telephone number→ Occupation/employment/name of employer→ Family status→ Nationality→ Religion→ Ethnic group
Date and time of the violation	<ul style="list-style-type: none">→ Day, month, year, hour?
Location of violation	<ul style="list-style-type: none">→ Where exactly did the violation take place? Country, county, location, village, etc.

What violations occurred	<ul style="list-style-type: none"> → What did you witness? → Describe the incident (or incidents) in detail? → What happened leading up to the violations?
Persons/ institutions involved in the violation	<ul style="list-style-type: none"> → Do you know the violators? Did you see them? Would you recognize them if you saw them again? → If they are security actors, which forces did they belong to? How do you know? → What type of vehicle (brand, colour, number plate) were they using?
Witnesses	<ul style="list-style-type: none"> → Did other members of the community or outsiders see the violation(s)? Who were they? (Collect full details, names, and addresses if possible)
Injuries and damage	<ul style="list-style-type: none"> → Any physical injury? If yes, what part of the body? → Any property damage? (Take pictures if possible.) → Did the victim(s) go to a doctor, medical clinic, or hospital? Request for the medical report if available? If not available, ask why?
Response by authorities	<ul style="list-style-type: none"> → Was the matter reported to the police or other authority? → Was anyone arrested or detained? Did they give a reason for the arrest? Did they show any warrant? → Was the victim taken away? How? Can you identify the type and number of vehicles? How many people were involved in the operation? → Are you aware of any investigation by the authorities? If yes, who have they interviewed? Has any action been taken? → Any action undertaken by a non-state actor on the matter?
Early warning signs	<ul style="list-style-type: none"> → Were there any incidents that happened soon before the violation that were a sign that the violation was to follow?
Contextual information	<p>Depending on the circumstances, ask questions to establish context and systems within which the violations occurred, e.g. on;</p> <ul style="list-style-type: none"> → Historical context → Economic indicators (unemployment rate, growth rate, economic policies) → Social indicators (access to health care and education, quality of life) → Demographic data (population size and age, presence of refugees or internally displaced persons). → Establish whether this or a similar kind of violation has happened in the same area or involving the same authorities/group of persons. <p>Or</p> <p>Political information such as:</p> <ul style="list-style-type: none"> → Nature of the political system → Role of security forces → Political or ethnic tensions and conflicts → Electoral patterns → History of human rights violations
Additional questions	<ul style="list-style-type: none"> → Is there anything that I may have left out that you want to share with me?

3.3 Annexure 3: Simplified monitoring and reporting tool

The simplified monitoring and reporting tool builds on Annexure 2.

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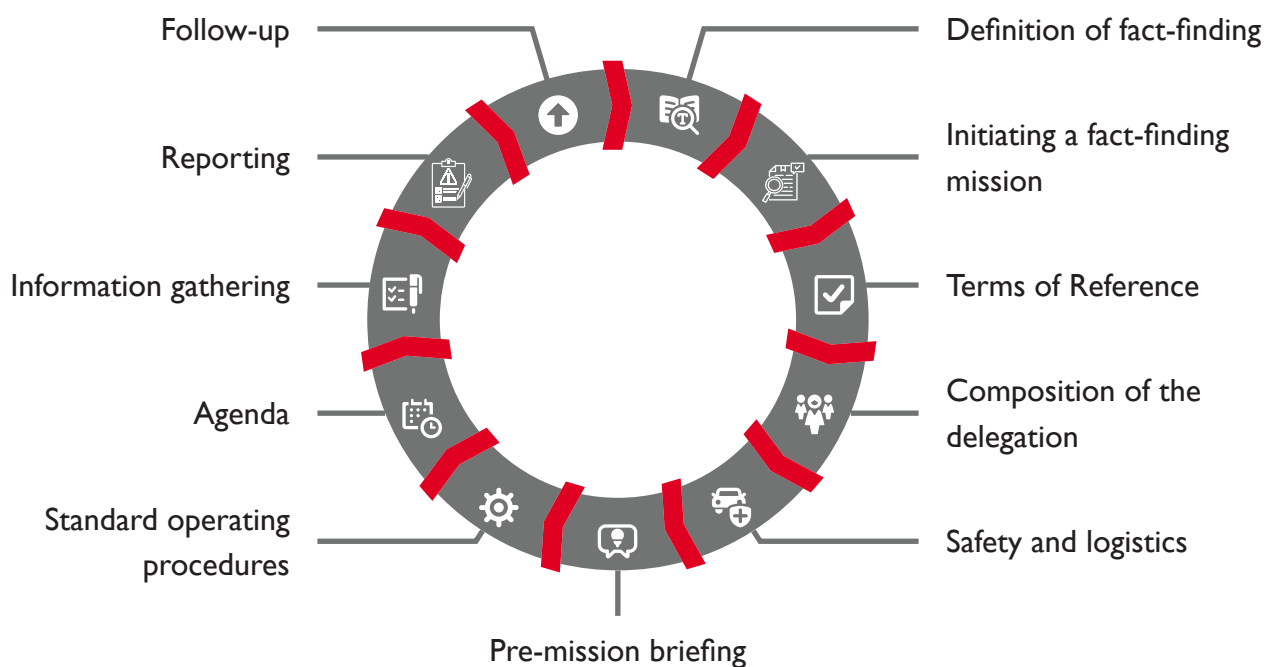
Note:

Additional tools are available to support the documentation of governance-related matters, depending on identified needs. For example, human rights election monitoring and observation tools may be employed to comprehensively cover both the campaign period and the voting process.

3.4 Annexure 4: Fact-finding mission guidelines

Fact-finding and report writing are essential components of human rights monitoring. These guidelines aim to enhance the accuracy, objectivity, and transparency of fact-finding missions and to ensure that allegations, observations, and conclusions are credible and reliable.

While organisational independence and integrity must always be preserved, fact-finding missions must be, and be seen to be, conducted in good faith. Reports must be objective, properly sourced, and their conclusions reached through transparent processes.



3.4.1 Definition of fact-finding

Fact-finding refers to information-gathering mandated by the organisation to ascertain facts in situations of human rights concern arising from claims of violations allegedly committed by state or non-state actors. The overarching purpose of fact-finding missions is to protect and promote human rights. Specific objectives may include:

1. Recording human rights violations.
2. Clarifying disputed facts in the context of complaints.
3. Initiating dialogue with the state to restore compliance with human rights standards.

Fact-finding missions typically have a narrow focus, addressing a specific case or form of maltreatment,

and must conclude with a written report.

3.4.2 Initiating a fact-finding mission

Any programme or thematic area team leader may propose to the Program Advisor for Human Rights Monitoring and Response to undertake fact-finding missions in response to alleged human rights violations in a specific area. The Program Advisor shall convene an urgent action team to assess the feasibility of a fact-finding mission and, if approved, select the delegation.

The urgent action team comprises the Executive Director, Deputy Executive Director, Program Advisor for Human Rights Monitoring, Communications Officer, Program Advisor for Legal Affairs, and a team leader from the relevant programme area.

The decision to proceed will be based on the organisation's mandate, priorities, resources, and whether the issue constitutes a systemic and gross violation. Indicators include:

1. Identity of victims (e.g., religion, ethnicity, political affiliation, gender, profession, age group).
2. Location of violations (e.g., village, prison, police station, military base, secret detention centre, checkpoint).
3. Methods used (e.g., similar forms of killing, torture, arbitrary arrest).
4. Circumstances of violations (before, during, or after).
5. Identity of alleged perpetrators (e.g., specific security units).
6. State or non-state responses (actions or inaction).

The urgent action team will also consider work already undertaken by other organisations, the impact of prior missions or public statements, and opportunities for joint fact-finding missions to maximise resources.

3.4.3 Terms of Reference

Each mission must have clear, concise, relevant, and flexible ToRs determined before deployment. ToRs must not reflect predetermined conclusions. Participating organisations should sign a Memorandum of Understanding (MoU) or detailed concept note clarifying roles, reporting responsibilities, and dissemination plans for joint fact-finding missions.

3.4.4 Composition of the delegation

Delegation members must be impartial and seen to be impartial. They must also act independently, lawfully, ethically, and objectively, and have relevant expertise and experience.

Each delegation should include a team leader, a rapporteur, and specialists in interviewing vulnerable groups (e.g., women, children, torture survi-

vors, internally displaced persons).

Selection considerations must include gender balance, diversity in geography, ethnicity, and language skills, regional and local knowledge, and security risks for certain members based on identity.

Smaller delegations are preferable to avoid intimidating interviewees and to encourage accurate disclosure.

3.4.5 Safety and logistics

Safety and confidentiality for all involved must be prioritized. It is crucial to seek government assurances against reprisals; if unavailable, take protective measures. Additionally, engage qualified, independent interpreters familiar with relevant terminology. Replace them immediately if professionalism or neutrality is in doubt.

3.4.6 Pre-mission briefing

The Team Leader shall:

1. Provide balanced briefings on mission rationale, ToRs, local context, cultural norms, security, logistics, legal environment, and medical precautions.
2. Ensure all members understand the need for impartiality, ethical conduct, and compliance with applicable laws and international human rights standards.
3. Offer gender sensitivity and psychosocial awareness training as necessary.
4. Prepare members to clearly explain the mission's objectives and limitations to stakeholders.
5. Brief the team on stress management and trauma awareness.

Where necessary, notify relevant government or other authorities of the mission.

3.4.7 Standard operating procedures

1. Delegates must uphold integrity, professionalism, and human rights standards.

2. Any member whose conduct jeopardises the mission should be removed.
3. Report threats, intimidation, or detentions immediately to the organisation.
4. Be prepared to initiate emergency procedures at any time.

3.4.8 Agenda

The urgent action team will define criteria for selecting interviewees and sites. The team leader will then schedule visits, considering safety and security needs.

The delegation should aim to meet all relevant stakeholders—government, judiciary, parliamentarians, opposition, journalists, religious leaders, NGOs, academics, intergovernmental agencies, and others with reliable insights.

3.4.9 Information gathering

Fact-finding seeks to determine the nature of the violation, its circumstances, and information about the victim and perpetrator. It further aims to establish the causes of violations and their consequences (legal, political, economic, and social).

Methods of collecting information are interviews, site visits, document collection, and observation of local practices.

Verify third-party information before relying on it. Keep detailed notes, protect all materials, and record any obstacles encountered. Where facts cannot be independently verified, note this in the report.

3.4.10 Reporting

The delegation should designate a drafter (ideally from among the mission participants). Where possible, conclusions and recommendations must be agreed upon collectively. The report should be accurate, objective, and transparent. The methodology and sources also need to be clear. Contextualization with relevant background information

is critical. The report should include an executive summary, ToRs, team member bios, dates, methodology, site lists (where safe), funding sources, applicable laws, and impediments encountered.

Recommendations should offer practical solutions. Divergent opinions may be included where relevant. Where possible, share draft reports with the appropriate government for comment before publication. Note any lack of response.

Publish in English and Kiswahili; translations must be of high quality.

3.4.11 Follow-up

Continue monitoring the safety of individuals engaged during the mission and act promptly on post-mission threats, including alerting authorities or international actors. Additionally, offer debriefing to manage stress or trauma, review mission performance and procedures to identify lessons learned, and share best practices internally and, where relevant, with partner NGOs.

3.5 Annexure 5: Resourcing rapid responses to emerging human rights issues

KHRC has a rapid response committee comprising the Executive Management², Human Rights Monitoring Advisor, Legal Advisor, Communications Advisor, Finance Manager, and the Program Manager and Officer responsible for the thematic area under which the human rights issue falls.

Where urgent action interventions require sustained advocacy, the Officer in charge of the relevant thematic area always takes up the matter.

KHRC, in consultation and negotiation with its development partners, established a dedicated kitty to fund rapid response interventions. The kitty is dynamic and flexible to effectively address emerg-

² Executive Director, Deputy Executive Director, and the Director of Finance and Administration

ing needs and issues, while ensuring full accountability to the organization and its partners. Expenditure from the fund is authorized by either the Executive Director or the Deputy Executive Director.

3.6 Annexure 6: Key international human rights instruments

Human rights instruments can be categorised into three main distinctions. They are general and special, global and regional, and binding and non-binding instruments.

A general instrument, such as the Universal Declaration of Human Rights (UDHR), addresses a broad spectrum of human rights. In contrast, a special instrument focuses on specific areas such as the rights of women, the rights of the child, employment, or freedom of information.

Global instruments are developed by international organisations such as the United Nations (UN) and the International Labour Organization (ILO). Regional instruments are produced by regional bodies like the African Union (AU), the Organization of American States (OAS), and the Council of Europe.

Instruments may also be binding or non-binding on states. Non-binding instruments, such as the UDHR or the American Declaration on the Rights and Duties of Man, are not legally enforceable. Still, they form part of international law and are frequently referenced in national laws and jurisprudence. They are expressions of good intent, carry significant moral weight, and often have wide influence because they are adopted by the full governing body of an intergovernmental organisation (IGO), such as the UN General Assembly.

Binding instruments, such as covenants, conventions, and treaties, carry legal obligations for the states that adopt them. Examples include the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

A formal process, usually a signature followed by ratification, is required for an instrument to become legally binding. Signature indicates a state's intention to comply with the instrument and refrain from actions contrary to its provisions. Ratification is the formal confirmation, often through a legislative vote, by which the state agrees to be legally bound.

In some states, particularly where the executive holds lawmaking powers, a single act of accession replaces the two-step process. Accession has the same legal effect as signature and ratification. States that have ratified or acceded to binding instruments are called State Parties or Contracting Parties.

Some instruments have protocols, which are supplementary agreements to the main instrument. For instance, the Optional Protocol to the ICCPR allows the UN Human Rights Committee to receive individual complaints. As its name suggests, ratification or accession to such a protocol is voluntary. Consequently, the individual complaint procedure applies only to State Parties that have ratified or acceded to the protocol, not to all ICCPR parties.

States that adopt human rights instruments assume two types of obligations. The first is moral obligations for non-binding instruments; the second is legal obligations for binding instruments they have signed, ratified, or acceded to.

States are expected to fulfil these obligations through domestic legislation and the effective implementation of those laws.

3.7 Annexure 7: KHRC engagement in the Solai dam tragedy

Documented by Robert Njenga, Coordinator of the Freedom of Information Network (Nakuru) and KHRC

On May 9, 2018, the Milmet Dam—one of five earthen embankment dams owned by Mansukul Patel on his 1,400-hectare Solai Roses farm—burst in the evening as families prepared their meals. Witnesses reported hearing a loud bang, followed by what they described as “a sea of water.” Approximately 70 million litres surged, creating a 1.5-metre-high, 500-metre-wide wall of water.

The flood tore through hillsides, uprooted power poles, destroyed buildings (including a school), and submerged the villages of Nyakinyua and Energy. Homes within two kilometres were inundated, while farms as far as 25 kilometres downstream in Endao and Nyandarua suffered massive destruction.

In the immediate aftermath, KHRC, in partnership with the Mid Rift Human Rights Network and the Freedom of Information Network, visited victims to assess human rights and humanitarian concerns. This led to a fact-finding mission to determine the causes and scale of the disaster.

Fact-finding mission

The mission culminated in the report *Damned Dam: Exposing Corporate and State Impunity in the Solai Tragedy*³. The findings indicated dam owners’ non-compliance with environmental and water management laws. It also showed negligence by government oversight agencies, particularly the National Environment Management Authority (NEMA) and the Water Resources Authority (WRA).

The investigation also uncovered serious irregularities in the management of humanitarian assistance. On May 28, 2018, KHRC wrote to NEMA, WRA, the dam owners, and the Rongai Deputy County Commissioner, seeking documents, including audit reports, environmental assessments, licences, proof of fee payments, lists of victims, records of property damage, and details on funds raised and disbursed. None of these requests received a response.

Legal and advocacy actions

When requests were ignored, KHRC escalated matters. Physical visits to government offices were met with hostility. Evidence emerged of collusion between dam owners, national government administrators, and security agencies to obstruct justice. Victims were lured to a meeting where they were handed cheques as “compensation” but simultaneously tricked into signing indemnity agreements waiving future claims.

KHRC petitioned the Director of Public Prosecutions to investigate named public officers for offences including abuse of office, conspiracy to defeat justice, misleading the public, and breach of public trust.

On July 5, 2018, the dam owners and seven public officers were charged with 48 counts of manslaughter in the Naivasha Court. KHRC watched brief for victims and helped mobilise witnesses. Although the case was briefly terminated, KHRC successfully pushed for reinstatement. Eventually, an out-of-court settlement was reached at the victims’ request. Minors received Sh800,000 each, while adults received Sh1,200,000 each.

Victim support and civil litigation

Alongside the criminal proceedings, KHRC provided:

3 <https://khrc.or.ke/wp-content/uploads/2024/02/Damned-Dam-Exposing-Corporate-and-State-impunity-in-the-Solai-tragedy.pdf>

- Psycho-social support. Counselling sessions followed an assessment that categorised victims by psychological and emotional impact.
- Victim mapping. Categorisation into fatalities, bodily injuries, and property losses (subdivided into buildings and businesses, tenants, land and landowners, tenants on affected land, and institutions). This produced a valuation report dated August 29, 2019, listing 412 victims.
- Civil litigation: Support for plaintiffs in Civil Case No. 29 of 2020 (Stephen Kuria Kagwi & Others v. Perry Mansukhalal Kansagra & Others), providing legal fees, representation, and logistical support. The case, with 249 plaintiffs, remains ongoing.

Challenges faced

KHRC's work was hampered by hostility from security agencies and bans on meetings with victims. There was a disruption of gatherings, including the January 30, 2019 incident where anti-riot police teargassed participants and a nearby school.

Additionally, police arrested the area MCA and eight victims, who were later acquitted after KHRC provided bail and legal aid. Still, intimidation and bribery of victims to abandon the cause went on.

Alliances and media strategy

To strengthen advocacy, KHRC built strategic alliances with the Kenyan Senate. Here, we facilitated victim visits, Senate field visits, and the submission of formal recommendations for legal, administrative, investigative, and policy action.

KHRC also hosted a visit by the **United Nations Working Group on Business and Human Rights** that resulted in findings being shared with the government.

Print, broadcast, and digital media were central to keeping the tragedy in the public eye. KHRC ensured every significant development was covered, arranging talk shows for victims and securing newspaper coverage to maintain pressure on authorities.

3.8 Annexure 8: Key references, bibliographies, and resource materials

1. The monitoring and research reports developed by KHRC and the broader human rights movement in Kenya and beyond, spanning from 1992 to date, capture key patterns and trends in the state of human rights. KHRC's topical and annual human rights reports and press statements document these developments and present critical policy actions and recommendations. Refer to the latest reports for current insights⁴.
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8. https://ennhri.org/wp-content/uploads/2020/05/undp_trainer_s_guide_on_fact_finding_and_monitoring.pdf;

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13. <https://sudan-justice-hub.wayamo.com/information-sheet/monitoring-documenting-and-reporting-on-human-rights/>;
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