

# Committee on the Protection of the Rights of People Living with HIV and Those at Risk, Vulnerable to and Affected by HIV - 750S

May 20, 2023

## Introduction

1. This Report is submitted in accordance with Rules 25(3) and 64 of the Rules of Procedure (2020) of the African Commission on Human and Peoples' Rights (the Commission). It provides an update of activities carried out during the intersession period after the 73rd Ordinary Session of the Commission, held physically in Banjul, The Gambia, from 20 October to 9 November 2022.

2. The Report consists of four parts. The First Part deals with activities carried out in my capacity as Commissioner; the Second Part consists of activities as Chairperson of the Committee on the Protection of the Rights of People Living with HIV and Those at Risk, Vulnerable to and Affected by HIV (Committee on HIV); the Third Part elaborates on the situation of HIV/AIDS on the continent, and the Fourth Part contains the conclusion with a set of recommendations.

## **PART I: ACTIVITIES CARRIED OUT IN MY CAPACITY AS COMMISSIONER**

### I. Engagements with State Parties

3. Article 45(1)(c) of the African Charter requires the Commission to co-operate with other African institutions concerned with the promotion and protection of human and peoples' rights. As part of my deliberate effort to engage with State Parties to the African Charter on the implementation of their human rights obligations, especially countries for which I am directly responsible for monitoring the situation of human rights, I paid a courtesy visit to the Minister of Foreign Affairs of the Republic of the Gambia and the Attorney-General of the Gambia, represented by the Solicitor General on 9 November 2022.

4. The purpose of the Visit was to engage with the host Government of the Gambia. During the Visit, I highlighted ways in which the Commission could support the Gambia in meeting its commitments under the African Charter on Human and Peoples' Rights (Charter) and improving the rule of law in the country, including conducting a Road Show on human rights as part of our promotion mission in the Host country.

### II. Africa Regional Seminar on the Contribution of Development to the Enjoyment of All Human Rights

5. At the direction of the Chairperson of the African Commission, I attended the Africa Regional Seminar on the Contribution of Development to the Enjoyment of All Human Rights organized by the United Nations Office of the High Commissioner for Human Rights in Nairobi, Kenya from 24 - 25 November 2022. During the Seminar, I wore two hats: I delivered the opening remarks on behalf of the Honourable Chairperson of the African Union Organs including the African Union Commission (AUC), which was represented. I also made a Presentation as part of the Keynote Panel on "Reflections on the contribution of development to the enjoyment of human rights" on behalf of the African Commission on Human and Peoples' Rights.

6. During my presentation, I highlighted the need for continued cooperation between the UN and the Commission under the Addis Ababa Roadmap on cooperation between the African Commission on Human and People's Rights and the UN Human Rights in the advancement of the right to development, especially for marginalised populations. I emphasised that, under Commission Resolution 224 on a Human-Rights Based Approach to Natural Resources

Governance, adopted at the Commission's 51st Ordinary Session held from 18 April to 2 May 2012 in Banjul, The Gambia, the Commission recognised "the interdependence between human rights and development".

7.I noted that African countries are well within their abilities and vast resources to do much more for their people with respect to access to energy, food and water security, adequate housing, education (especially for vulnerable groups such as women and children, indigenous populations, persons with disabilities and people living with HIV/AIDS), in addition to internet and broadband services, and general public infrastructure such as good roads, school facilities, pipe-borne water, waste management and sanitation. I put it on record that the advancement in national development should be spurred from a total commitment to human rights ideals, obedience to the rule of law, participatory democracy, accountable government, and sustainable development.

8.I also highlighted the need for African countries, especially State Parties to the Kampala Convention, to take all appropriate measures to ensure the protection of populations against forced displacement caused by large development projects in Africa in accordance with Resolution 335 of 2016 on the Situation of Internally Displaced Persons in Africa adopted at the Commission's 19th Extra-Ordinary Session held from 16 to 25 February 2016 in Banjul.

### III.Human rights Workshop and Rule of Law Symposium in Cameroon

9.On 22 March 2023, I represented the Chairperson of the Commission at the Workshop on Accessing the Jurisprudence and Procedures of the African Court on Human and Peoples' Rights and the African Commission on Human and Peoples' Rights hosted by the British High Commission and a Policy Symposium on the Rule of Law and Cameroon National Development Strategy, on 23 March 2023 in Yaoundé, Cameroon. Both events were organized by the Cameroon Bar Association in collaboration with the British High Commission in Cameroon.

10.During my presentations, I emphasized that human rights and the rule of law are not only fundamental shared values of AU member states, they are also critical elements for the proper functioning and developmental transformation of any democracy. I urged Cameroon to abide by the rule of law in accordance with its development objectives in the National Development Strategy 2020-2030.

### IV.36th Extra-Ordinary Session of the Commission

11.On 9 January 2023, I attended the 36th Extra-Ordinary Session of the Commission, which was a private Session and was charged with the responsibility of reading the Final Communiqué.

### V.Country Monitoring

12.In accordance with the Commission's mandate under Article 45 of the African Charter, the Commission has an important role in monitoring the implementation of the Charter by State Parties. In particular, Members of the Commission have responsibilities to monitor the state of human rights in selected countries and address human and peoples' rights concerns wherever necessary. In doing so, State Parties and indeed other stakeholders are encouraged "to cooperate and consult the Country Rapporteurs of the Commission in the design, planning, implementation and review of Human Rights mandate in their country."

13.Based on the above, I have responsibility for monitoring the state of human rights as Country Rapporteur in five (5) State Parties on the continent, namely:

- (a)the Arab Republic of Egypt;
- (b)the State of Eritrea;

- (c)the Kingdom of Eswatini;
- (d)the Republic of The Gambia; and
- (e)the Republic of Sierra Leone.

14. During the intersession period, the Commission received correspondences regarding the following countries.

#### Egypt

15. I note with concern the numerous human rights complaints against the Arab Republic of Egypt and welcome the cooperation received from the the Government of Egypt in handling this challenge. The Commission calls upon the Government to respectively comply with its human rights obligations under the Charter.

16. It will be recalled that the Commission granted Affiliate Status to the National Council for Human Rights of Egypt during the 73rd Ordinary Session. In order to strengthen engagement between the Commission and the Government of Egypt, I have submitted a request to undertake a Working Visit and Human Rights Promotion Mission to the Government of Egypt in order to increase awareness about the rights and freedoms contained in the African Charter and the obligations of Government. While the Secretariat awaits the response of the Government, the Commission looks forward to receiving a favourable consideration of its request for a Promotion Mission to the country.

17. I would like to acknowledge that Egypt is currently up to date on its reporting obligations under Article 62 of the African Charter. It is my hope that, with the support of the National Council for Human Rights, the Government will continue to submit its periodic reports as and when due.

#### Eswatini

18. It will be recalled that on 17 July 2021 and 25 October 2021 respectively, the ACHPR issued two press statements on the human rights situation in eSwatini following the protests and confrontation between protesters and law enforcement personnel. The statements called on Eswatini to: Immediately halt the use by police of live ammunition; Comply with the principles of precaution, proportionality and necessity in the use of force and avoid the use of lethal force except as a last resort; ensure there are prompt, transparent, effective, independent and impartial investigations into all allegations of human rights violations, particularly the use of excessive force by security forces; Avail those whose rights have been violated by enforcement institutions to have unhindered access to remedies; and ensure unhindered access to the internet.

19. During the Inter-Session period, I continued to monitor the deteriorating situation of human rights in the Kingdom of Eswatini. Of particular concern to the Commission have been the escalating internal political uncertainty and increasing attacks on journalists and human rights defenders by the Security Services and unknown actors. On 21 January 2023, the World was shocked to learn about the brutal murder of renowned Swati human rights lawyer and political activist, Adv. Thulani Rudolf Maseko at his home. Adv. Maseko attended the 73rd Ordinary Session of the Commission and today is no more. In response to this ugly state of affairs, I issued a joint press statement with the Honourable Chairperson of the Commission to condemn the horrific murder on 23 January 2023, which can be found on the Commission's website.

[ <https://t.co/OsV5UhDCV2> - English

[https://twitter.com/achpr\\_cadhp/status/1617515449704648709](https://twitter.com/achpr_cadhp/status/1617515449704648709) - tweet

[https://facebook.com/permalink.php?story\\_fbid=593565516114270&id=100063...](https://facebook.com/permalink.php?story_fbid=593565516114270&id=100063...) - Facebook.]

We also sent a joint Letter of Appeal to His Majesty, King Mswati III, on 26 January 2023,

regarding the tragic murder of the learned advocate and activist, and dispatched a Condolence Message to console his family.

#### Sierra Leone

20. During the Inter-Session period, the Commission learned with much delight that the Government of Sierra Leone had enacted into law in January 2023 the Gender Equality and Women's Empowerment Act. As such, working closely with my Sister Commissioner and Special Rapporteur on the Rights of Women in Africa, Honourable Commissioner Janet, we issued a joint Letter of Commendation for enacting the landmark Gender Equality and Women Empowerment Act that gives effect to the provisions enshrined in the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa 2003 (Maputo Protocol).

#### The Gambia

21. During the Inter-Session period, the Secretariat received complaints from critical stakeholders in the Gambia concerning the electoral process leading up to the local council elections and the need for Government to not take actions that are capable of truncating the democratic process.

22. In my capacity as the Country Rapporteur for the Gambia, I received an invitation from the Chairperson of the Gambian Independent Electoral Commission to participate in the AU Observer Mission for Local Government Elections for Counselor to Mayoral elections scheduled from 15 April 2023 and 20 May 2023, respectively. However, based on a decision of the Commission during the 74th Ordinary Session, the STC informed the Independent Electoral Commission that the African Commission was not able to honour the invitation.

23. The Commission participated in various consultative meetings convened by the Government, the UN in the Gambia, and other development partners regarding the Gambia's National Development Plan, the support for the TRRC recommendations, the improvement of the situation of human rights in the Gambia and planning activities to commemorate the Universal Declaration at 75. For many of these meetings, the consultations are still ongoing and the Commission hopes to continue to support the Government and good people of the Gambia to build a strong development trajectory that is anchored on human rights and the rule of law.

24. However, particularly worrying was the failed coup attempt in the Gambia on Tuesday, 20 December 2022. In response to the failed bid to truncate Gambia's nascent democracy, I issued a Press Statement on the Attempted Coup d'Etat in The Gambia to condemn the unconstitutional attempt to overthrow the lawful and democratically elected government of The Gambia. My Press Statement can be found on the Commission's website.

[ <https://t.co/SeBph327re> -

English; [https://twitter.com/achpr\\_cadhp/status/1606338363493154816](https://twitter.com/achpr_cadhp/status/1606338363493154816) -

Tweet; [https://facebook.com/permalink.php?story\\_fbid=571202078350614&id=100063...](https://facebook.com/permalink.php?story_fbid=571202078350614&id=100063...) - Facebook.]

## **PART II: ACTIVITIES CARRIED OUT AS CHAIRPERSON OF THE HIV COMMITTEE**

### VI. World AIDS' Day

25. To commemorate the occasion of the World AIDS' Day on 1 December 2022, I issued a Press Statement to mark the significance of the event. The theme for the year 2022 AIDS campaign was "Equalise", which was a clarion call to Governments, national human rights institutions, human rights defenders, civil society organisations, (especially women, youth, people living with HIV/AIDS and persons with disabilities organisations), academic, traditional and faith-based

organisations, developed countries and development partners, to work together through concerted efforts to address inequalities and help roll back the spread of the HIV/AIDS pandemic in Africa and the World as a whole. The Statement can be found on the Commission's website.

[ <https://t.co/IEr4ydVx1u> -

English; [https://twitter.com/achpr\\_cadhp/status/1598387238512959489](https://twitter.com/achpr_cadhp/status/1598387238512959489) -

Tweet; [https://facebook.com/permalink.php?story\\_fbid=552388763565279&id=100063...](https://facebook.com/permalink.php?story_fbid=552388763565279&id=100063...) - Facebook.]

#### VII.Re-advertisement and appointment of a new Expert Member

26.Pursuant to Resolution ACHPR/Res.534 (LXXIII) 2022 on the Renewal of the Mandate, Appointment of the Chairperson, and Reconstitution of the Committee on HIV adopted during the 73rd Ordinary Session held from 20 October to 9 November 2022, the Commission requested the Secretariat to readvertise the call for application of expert membership of the Working Group from North Africa in order to fulfil the requirement of geographical representation stipulated by the Standard Operating Procedures on Special Mechanisms.

27.In compliance with that request, the Secretariat published the re-advertisement of the Call for applications for the appointment of Expert Members from North Africa to serve on the Committee from 8 February 2023 and the deadline was 27 March 2023. The re-advertisement was done in Arabic, French and English and can be found on the Commission's website and other social media platforms.[ <https://t.co/AKWdweqCNZ> -

French; [https://twitter.com/achpr\\_cadhp/status/1623376932908765223](https://twitter.com/achpr_cadhp/status/1623376932908765223) -

Tweet; [https://facebook.com/permalink.php?story\\_fbid=605640494906772&id=100063...](https://facebook.com/permalink.php?story_fbid=605640494906772&id=100063...) - French

<https://t.co/NWVzY56rHI> - Arabic

[https://twitter.com/achpr\\_cadhp/status/1623377371502940186](https://twitter.com/achpr_cadhp/status/1623377371502940186) - Tweet

[https://facebook.com/permalink.php?story\\_fbid=605640191573469&id=100063...](https://facebook.com/permalink.php?story_fbid=605640191573469&id=100063...) - Arabic

<https://t.co/pBRt9QKXDz> - English

[https://twitter.com/achpr\\_cadhp/status/1623376838285266992](https://twitter.com/achpr_cadhp/status/1623376838285266992) - Tweet

[https://facebook.com/permalink.php?story\\_fbid=605640874906734&id=100063...](https://facebook.com/permalink.php?story_fbid=605640874906734&id=100063...) - Facebook.]

#### VIII.Promotion Mission to Tanzania

28.From 23-28 January 2023, I was part of the Commission's delegation for the Human Rights Promotion Mission to Tanzania, led by my sister Commissioner and Country Rapporteur for Tanzania, Honourable Commissioner Geereesha Topsy-Sonoo, to ascertain the allegations that indigenous Maasai communities were being evicted from their ancestral lands in Ngorongoro. During the delegation's engagements with various stakeholders, I interacted with the Tanzania Commission for AIDS (TACAIDS) and have since then followed up with them on areas of collaboration between the HIV Committee and TACAIDS. The final communique of that Mission is available on the Commission's website.[ <https://t.co/cD9xSHnbY8> - English

[https://twitter.com/achpr\\_cadhp/status/1629148886517284867](https://twitter.com/achpr_cadhp/status/1629148886517284867) - Tweet

[https://facebook.com/permalink.php?story\\_fbid=617839710353517&id=100063...](https://facebook.com/permalink.php?story_fbid=617839710353517&id=100063...) - Facebook.]

#### Part III: SITUATION OF THE RIGHTS OF PEOPLE LIVING WITH HIV/AIDS ON THE CONTINENT

29.Since the advent of the COVID-19 pandemic in 2020, the continental campaign against the spread of the HIV/AIDS virus has been eclipsed. The emergence of various overlapping health crises all over the world and in Africa has had an increasingly devastating impact on people living with and affected by HIV, and resulted in an adverse shift in the global and continental response to the AIDS pandemic.[ UNAIDS, In Danger: Global Aids Update

2022 [https://www.unaids.org/sites/default/files/media\\_asset/2022-global-aids...](https://www.unaids.org/sites/default/files/media_asset/2022-global-aids...) ( Accessed 12 September 2022)] In the last three years, the clashes in national responses to the twin AIDS and COVID-19 pandemics in addition to several persisting challenges have put the global HIV response under threat.

30.As is now widely acknowledged, COVID-19 and other uncertainties have not only disrupted health services across the world, but have also greatly increased the vulnerability of PLWHIV and those at risk, vulnerable to and affected by HIV. UNAIDS has noted that the debt distress or debt risks faced by 60% of the world's poorest and the impact of the pandemic on low- and middle-income countries have further pushed an estimated 75 to 95 million people into poverty. As serious pressure mounted, communities and groups that were already at greater risk of HIV became even more vulnerable. In particular, government investments in comprehensive HIV programmes have been reduced, with only 26% of low- and middle-income countries able to sponsor about 70% of their HIV spending through domestic funding streams.[ Ibid p. 232]

31.In the particular context of Africa, people living with HIV/AIDS and those at risk have generally receive little or no care and face systemic discrimination, social stigma associated with living with the virus and limited access to basic health services for prevention, diagnosis, and treatment. This existing challenge was made worse by the emergence of COVID-19, which led many States in Africa to re-allocate and re-prioritise resource allocation for the fight against HIV/AIDS.

32.Between 2020 and 2022, the reduction in programmes and policies on AIDS-free campaigns have seen some stagnancy and, sometimes, a resurgence in high-prevalence countries in Southern and Eastern Africa and Central and West Africa. This loss of progress and rescission in building momentum has been compounded by persisting civil crisis such as internal armed conflicts, poverty, food shortages and flooding in countries such as the DRC, Ethiopia, Nigeria, Somalia and Sudan, that have influenced the level of commitment by governments to do more to roll-back HIV/AIDS.

33.In this regard, and to direct focus to the plight of people living with HIV/AIDS in the post-COVID era, I am championing the development of a HIV/AIDS APP, which will be followed by digitization in close liaison with the AUC to support and protect this community.

34.The holding of the International Conference on AIDS and STIs in Africa (ICASA) in December 2023 provides an excellent platform to promote the APP and also to take advantage of the AU Ministers of Health meeting in September 2023 through ongoing collaboration with the AUC through which the idea of Heads States Champions for PLWHIV has been mooted.

#### **Part IV: CONCLUSIONS AND RECOMMENDATIONS**

35.Based on these developments, the following recommendations from the Committee are made to various stakeholders:

To State Parties:

- )} Adequately finance health institutions responsible for providing services in the area of HIV/AIDS in accordance with the Abuja Declaration and ensure that HIV policies and programmes are included in the annual national budget;
- )} Initiate, fund and support implementation activities for HIV prevention, increased access to healthcare services, early diagnosis and treatment, and care of People Living with HIV/AIDS;
- )} Provide services that break barriers to medical access for PLHIV, increase antiretroviral treatment and properly accommodate low-income earners at risk of or vulnerable to HIV through mobile clinics, telemedicine services and phone appointments;



-  Put an end to discrimination and stigma that people living with HIV and those affected by, vulnerable to and at risk of HIV face by implementing protection laws, rules and appropriate safeguards civil spaces;
-  End the operation of user fees such as payments for tests and consultation at health institutions for HIV and related ailments to make treatment more accessible; and
-  Support HIV/AIDS-focused NGOs in undertaking evidence-based research and providing services to PLHIV.

To NHRIs:

-  Create resourceful and reliable avenues for reporting human rights issues and complaints and a system for documenting and addressing HIV-related human rights violations;
-  Deliver accessible and reliable information and education on HIV prevention, diagnosis treatment and care to increase HIV literacy at the national and local levels;
-  Work with organisations and educational institutions to develop and deliver relevant sex education for adults and young people and with relevant health institutions to develop and implement an individualistic approach to treatment and care through tailor-made services targeted at those living with HIV and disabilities and those struggling with Antiretroviral-related issues;
-  Campaign for the protection of women/girls while supporting policies discouraging sexual abuse, FGM and other harmful practices;
-  Encourage healthcare facilities and medical professionals to ensure confidentiality between doctors and clients and promptly and safely deliver HIV-test results; and
-  Work with the Committee and other intergovernmental organisations and NGOs to increase HIV awareness, responses and policies.

To CSOs working on HIV-related issues:

-  Continue to create, support and strengthen monitoring processes and programmes for people living with HIV and those at risk;
-  Support collaborative programmes by Governments and community-based interventions to create a safe space for at risk of HIV; and
-  Facilitate and reinforce service delivery to those PLWHIV.

To Other Partners:

-  Collaborate with relevant national institutions responsible for HIV/AIDS, advocacy groups, civil society organisation and mechanisms such as the HIV Committee in developing and implementing programmes to address the plight of PLWHIV and issues pertaining to HIV/AIDS;
-  Support the Committee to popularise and disseminate its “Study on HIV, Law and Human Rights in the African Human Rights System: major challenges and opportunities linked to rights-based responses to HIV,” which provides a synopsis on the key issues affecting the rights of PLWHIV in Africa; and
-  Work with, and also provide technical, material and financial support relevant CSO working on HIV-related issues at the national level and to the Committee to enable the latter effectively implement its mandate.

36. In conclusion, I would like to, on behalf of myself and the Expert Members of the Committee, thank all long-term Partners of the Committee, in particular, UNAIDS for their continuous support and commitment to the work of the Committee.