66th Ordinary Session of the African Commission on Human and Peoples' Rights

Intersession Activity Report

By

Honourable Commissioner Soyata Maïga

Chairperson of the Committee on the Protection of the Rights of People Living with HIV (PLHIV), Those at Risk, Vulnerable to and Affected by HIV

13 July to 7 August, 2020
Introduction

1. This report is submitted in accordance with Rules 23(3) and 72 of the Rules of Procedure 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 65th Ordinary Session of the Commission, held from 21 October to 10 November 2019, in Banjul, The Gambia.

2. The report consists of two parts. The first part deals with activities carried out in my capacity as Commissioner. The second part focuses on activities undertaken by the Committee on the Protection of the Rights of People Living with HIV (PLHIV) and Those at Risk, Vulnerable to and Affected by HIV (HIV Committee). This second part is divided into four chapters. The first chapter reports on my activities as Chairperson of the HIV Committee while the second chapter deals with activities carried out by other members of the Committee. The third chapter relates to the status of the HIV epidemic on the continent during the period under review and the final chapter relates to recommendations made.

Part I: Activities carried out in my capacity as Commissioner

A. Participation in the Session code-named “Forum for Democratic Consultation (EID) on 10th December 2019, Bamako, Mali”

3. For several years now, Mali has been developing an original initiative called Espace d'interpellation Démocratique (EID), or Forum for Democratic Consultation, which consists in allowing citizens to question Ministers of the Republic concerning on-going projects, programmes or dysfunctions in the services provided by their departments, on 10 December of each year, during a public session broadcast live on national television. The aim is to promote human rights and foster a culture of accountability among topmost State officials.
4. I chaired the Jury of Honour on 24th Session of the EID on 10 December 2019 in Bamako at the request of the Office of the Mediator of the Republic. The Jury of Honour was made up of foreign guests and representatives of civil society organisations, religious leaders and the media. At the end of the question-and-answer session, the Jury of Honour made recommendations to the different ministries with a view to addressing the issues raised in the questions. The guest of honour at the 2019 event was the representative of the Commissioner for Political Affairs of the African Union.

B. Participation in the 19th Edition of the Doha Forum
14-15 December 2019, Qatar, Doha

5. I was invited by His Excellency Mohammed Bin Abdulrahmane Al Tani, Deputy Prime Minister and Minister of Foreign Affairs of Qatar, to participate in the Doha 2019 Forum.

6. It was a platform for the exchange of ideas, best practices and solutions among different actors in the world on crucial issues affecting people around the world. The 2019 Edition, held on 14 and 15 December, was open to the world's top decision-makers to discuss the global challenges facing the world in the economic, social, political and human rights domains, with a focus on women's rights.

7. We expressed our interest in the challenges faced by women and youth in their participation in political governance and decision-making bodies in African countries.

C. Participation in Meetings of the Policy/Governing Bodies of the African Union from 6 to 10 February 2020, Addis Ababa, Ethiopia

8. I participated in the meetings of the governance organs of the African Union (AU) held on the occasion of the 33rd African Union Summit, namely the 36th Ordinary Session of the Executive Council (EC) held from 6 to 7 February 2020 and the 33rd Ordinary Session of the Assembly of Heads of State and Government (the Assembly) held on 9 and 10 February 2020.
D. Participation in other meetings and activities organised as a prelude to and on the sidelines of the 33rd AU Summit.

- Participation in the 35th GIMAC, Addis Ababa, Ethiopia, 3 - 4 February 2020

9. I participated in the 35th GIMAC (Gender is My Agenda Campaign) Pre-Summit Consultative Meeting on Gender Mainstreaming in the African Union (AU) held on 3-4 February 2020 in Addis Ababa, Ethiopia on the theme "Recognizing and Empowering Women and Girls to Silence the Gun in Africa", a theme drawn from the African Union's 2020 theme "Silencing the Gun: Creating Conducive Conditions for Africa's Development".

10. In addition to the networks and NGOs that make up GIMAC, participants came from countries in conflict situations to give their testimonies and report on the vulnerabilities of women and girls in these environments.

11. I had the honour of chairing the first session dedicated to the interactive presentation on the theme "peace and security", which was devoted to exchanges on an individual testimony on the persistence of violent conflict in the Sahel, the role and action of young women in silencing guns in Southern Sudan, and the contributions of grass-roots women to conflict prevention and peacebuilding through local governance in eastern DRC. The presentations were made by women survivors of violent conflicts in the Sahel, the DRC and Southern Sudan. Discussions focused on women's contribution to conflict prevention and peace-building through local governance. The needs and role of women in this regard were identified, depending on the region and country, in terms of capacity building in disarmament, demobilization and reintegration operations.

12. The GIMAC session enabled participants to identify inclusive, effective and efficient strategies that can collectively strengthen the action and role of women and girls in the realization of the African Silencing Initiative. Participants made recommendations that address the complexities
underlying conflict and that are gender-sensitive, effective and practical for Africa. In this regard, an appeal was made to the AU and its Member States on the need to mainstream gender equality in efforts to silence arms on the continent.

13. Other themes on the agenda included -Beijing plus 25-, and the discussions of the Platform - a forum set up in March 2018 in New York and composed of the UN Mechanisms for Women's Rights, the Special Rapporteur on the Rights of Women in Africa and the Inter-American Commission on Human Rights. The discussions focused, among other things, on the work that each of the bodies has done in the area of combating gender-based violence, particularly in times of conflict.

14. I also took part in a dinner and lunch, chaired by Her Excellency the President of the Republic of Ethiopia, which brought together high-level representatives of the African Union, Canada, the United Nations Women's Fund and the European Union. Their main objective was to launch the project to create a women's bank and to record the various expected contributions.

15. I am pleased to note that on the margins of GIMAC, Commissioner Lucy Asuagbor and I received an AWARD in recognition of our commitment to African women’s rights.

➢ Participation in the Fifth Meeting of the Steering Committee of the PANAF Programme, 4 February 2020, Addis-Ababa, Ethiopia

16. I participated in the Steering Committee meeting on the PANAF Project held on 4 February 2020, as a prelude to the AU Summit in February 2020. During this meeting, the AU Organs supported by the European Union within the framework of the PANAF Programme took stock of the progress made in the implementation of their activities under this programme as well as the challenges encountered in the execution of the project.

17. During this meeting, we exchanged views on the way forward for the closure of the PANAF programme scheduled for July 2020. Participants were informed about the newly approved AGM Programme within the
framework of EU support for the promotion and protection of human rights.

- **Participation in the meeting with Mr. Moussa Faki Mahamat, Chairperson of the African Union Commission**  
  5 February 2020 in Addis Ababa, Ethiopia

18. I took part in the meeting of H.E. Moussa Faki Mahamat, Chairperson of the AUC, with the delegation of the Commission present in Addis Ababa during which several points concerning the mandate and functioning of the Commission were discussed.

- **Participation in the press briefing on the theme of the year and in the launching of the ACHPR study on human rights in conflict situations.**  
  7 February 2020 in Addis Ababa, Ethiopia

19. I took part in a press briefing organized by the Chairperson of the Commission on the AU theme for the year 2020, "Silencing the Guns in Africa". The briefing by the Chairperson of the Commission was under the theme "Human and peoples' rights to silence arms in Africa". The press briefing concluded with the launching and dissemination of the ACHPR Study on Human Rights in Conflict Situations adopted at its 65th Ordinary Session held from 21 October to 10 November 2019, in Banjul, The Gambia.

**E. Participation in the 27th Extraordinary Session of the Commission, 19 February – 4 March 2020, Banjul, The Gambia**

20. I took part in the 27th Extraordinary Session of the Commission held from 19 February - 4 March 2020 in Banjul, The Gambia. During this session, we considered, inter alia, Communications, the Draft Rules of Procedure, various Reports and other documents prepared within the mandate of the Commission.
F. Online consultation with selected NGOs advocating for the rights of indigenous peoples and people living with HIV and groups at risk, 21 May 2020

21. I facilitated an online consultation with NGOs advocating for the rights of indigenous peoples, people living with HIV and at-risk groups to share the challenges and barriers they face in carrying out their mission in these Covid-19 times.

22. The discussions focused on issues related to actions taken by some States that impede the rights of indigenous populations/communities or people living with HIV, people at risk, vulnerable to and affected by HIV that are unique to the context of Covid-19 and the actions of States to address the specific issues faced by indigenous populations/communities or people living with HIV, people at risk, vulnerable to and affected by HIV in the context of Covid-19.

23. This consultation was attended by a good number of NGOs, including HRW, NGOs from Burkina Faso, Cameroon, Côte d'Ivoire and the DRC. They outlined the new challenges faced by PLHIV and in particular key populations and Indigenous Populations in their countries due to already existing conflicts, poverty and the effects of lockdowns. There is, according to them, a renewed stigmatization against key populations.

24. Problems of access to water, food, care and testing have worsened for people in rural areas with the lockdowns in large capital cities. It was pointed out that the measures adopted by governments do not involve NGOs, which should be involved in raising awareness and identifying appropriate solutions.

25. The exchanges highlighted the need for NGOs working on HIV and human rights to take ownership of the recommendations of the committee's study on "HIV, Law and Human Rights in the African Human Rights System: Key Challenges and Opportunities for Rights-Based Responses to HIV" that touch on all these issues. They were asked to engage more with populations.
Part II: Activities carried out by the HIV Committee

I. Activities carried out in my capacity as Chairperson of the Committee

➢ Participation in the Awareness Raising Seminar on the Promotion and Protection of Women's Rights in Africa
   17-19 December 2019, Dakar, Senegal


27. The overall objective of the seminar was to sensitize various stakeholders on the work of the Commission on the promotion and protection of women's rights in Africa. Several themes were addressed and the Committee, represented by Mr. Christian Garuka Nsabimana, expert member and myself, made presentations on two themes, namely "Women and HIV/AIDS in Africa: the right of women to protect themselves and be protected against HIV/AIDS" and "HIV, the law and human rights in the African human rights system".


28. The commemoration of World AIDS Day, celebrated under the theme "Community-based organizations make a difference", was the occasion for the Committee to issue a press release which was widely disseminated. The Committee regretted that the issue of the participation
of people affected by the pandemic in decision-making processes affecting their lives is often not taken into account; while any effective strategy must take into account the personal experience of people living with HIV and other groups at risk, it was noted that the Committee was concerned that the participation of people affected by the pandemic in decision-making processes affecting their lives is often not taken into account; while to be effective, any strategy must take into account the personal experience of people living with HIV and other groups at risk.

29. The Committee emphasized the important role played by community-based organizations in the response to HIV and commended the determination of all men and women who, individually and collectively, have demonstrated the courage to demand access to HIV treatment for all, reduce the risk and spread of the virus, and eliminate violations of the human rights of people living with HIV and key populations.

II. Activities carried out by Members of the Committee

➢ Pre-Conference of Key Populations of the International Conference on AIDS and STIs in Africa (ICASA) November 29-30, 2019, Kigali, Rwanda.

30. Mr Christian Garuka Nsabimana, member of the HIV Committee, participated in the ICASA Key Populations pre-conference held on 29-30 November 2019 in Kigali, Rwanda. The theme of the event was "Rethinking Strategies and Building Resilience: Moving out of the Old Era and into the Era of SDGs through Mobilization of Political Will and Community Investment". He participated as a panellist in the last day of the ICASA Pre-Conference.

31. In his intervention, he recalled the mandate of the HIV Committee and underscored the importance the Committee attaches to issues affecting the rights of key populations in Africa in the context of HIV. He urged members of key populations to work closely with the HIV Committee with the ultimate goal of ensuring that their voices are heard at the continental level from a human rights perspective.
ICASA Conference and Workshop on the Promotion of Human Rights of Key Populations in Africa.

32. The HIV Committee, represented by its expert members, Professor Ebenezer Durojaye, Mr Christian Garuka Nsabimana and Mr Fogue Dzutue Alain Patric Ledoux, participated in the 20th International Conference on AIDS and STIs in Africa (ICASA 2019) held from 2-7 December 2019 in Kigali, Rwanda. The theme of this year's ICASA was "An AIDS-Free Africa: Innovation, Community and Political Leadership".

33. On the margins of ICASA, the Committee, in collaboration with the NGOs African Men for Sexual Health and Rights (AMSHeR) and Kenya Legal and Ethical Issues Network on HIV and AIDS (KELIN), organized a workshop on 5 December 2019. On this occasion, the panel discussed efforts to promote the human rights of key populations in Africa, as well as opportunities and challenges in this regard. The expert members of the Committee presented the perspective of the ACHPR and briefed participants on the key findings on key populations from the Commission's Study on HIV, Law and Human Rights commissioned by the Committee. They also highlighted the progress and challenges identified and the recommendations made in the study. The Committee representatives also encouraged members of civil society to fully engage with the HIV Committee and the African Commission, including by participating in the NGO Forum preceding the Ordinary Sessions of the Commission, but also by applying for observer status with the Commission and sending communications/complaints to the HIV Committee.

III. Situation of HIV/AIDS on the Continent.

34. Following information and reports from various actors and partners involved in the fight against HIV, positive developments were noted as well as areas of concern regarding the HIV epidemic and the promotion and protection of the rights of people living with HIV and groups at risk on the continent.
35. With regard to the positive developments, the Committee notes that progress has been made by some countries such as Botswana, Eswatini and Namibia towards achieving the UNAIDS 90-90-90 targets.

36. In spite of some progress made, the Committee notes some areas of concern, including the following:

- Interruptions of HIV/AIDS-related services and health care in some health facilities during the Covid-19 pandemic and the fear of going to health facilities to receive HIV-related services and care for fear of becoming infected with COVID-19;
- The social and economic marginalization of African women, which makes them more vulnerable to HIV. In sub-Saharan Africa, according to the UNAIDS report, four out of five new infections among adolescents aged 15-19 years are girls. Young women aged 15-24 are twice as likely to be living with HIV as men.
- There are increasing numbers of new infections among key populations, including men who have sex with men, injecting drug users, sex workers and people in prison, particularly in North Africa.
- Discrimination and stigma persist against people living with HIV and key populations and act as a barrier to access to HIV prevention, care and treatment services on the continent.
- The persistence of punitive laws and repressive and discriminatory practices and the failure to address the human rights dimension of the HIV response.

**Recommendations**

37. In the light of the foregoing, the Committee makes the following recommendations to the various stakeholders:

**To States and Governments:**

- Ensure that the focus on the fight against COVID-19 does not diminish efforts to combat HIV/AIDS and does not undermine the progress already made in terms of HIV prevention and control;
- Take appropriate measures to address the root causes of the vulnerability of girls and women, including through the development of programmes to empower them;
- Adopt adequate measures to prevent and reduce new HIV infections, especially among key populations;
- Combat discrimination, stigmatization and other harmful social and cultural practices that hinder the fight against HIV/AIDS, including in health facilities;
- Eliminate all legal barriers that prevent populations in general and people living with HIV and key populations in particular from accessing HIV prevention, treatment and care services;
- Enact legislation in areas where legal gaps exist in order to adopt and implement laws that effectively protect the rights of PLHIV, vulnerable people and groups at risk;
- Ensure the availability, good quality and accessibility by all populations without any distinction whatsoever, to adequate HIV prevention, treatment and care services;
- Adopt a human rights-based approach in their responses to HIV and ensure that they comply with their obligations under international and regional human rights protection instruments;
- Provide the resources necessary to scale up self-testing to facilitate access to testing for all without fear of stigma and discrimination;
- Involve representatives of PLHIV, vulnerable people and at-risk groups in all stages of discussions, particularly in the design and development of national legal frameworks, plans, policies and programmes to fight the epidemic;
- Take ownership of the findings of the African Commission's study on "HIV, Law and Human Rights in the African Human Rights System: Key Challenges and Opportunities for Rights-Based Responses to HIV" and implement the recommendations made therein.

**To National Human Rights Institutions and Civil Society Organizations:**
- Continue to advocate with States parties for the reform of punitive laws and the abandonment of repressive and discriminatory practices;
- Raise awareness among States Parties of the need to implement strategies to put in place legal frameworks that effectively protect the rights of
people living with HIV and people at risk, vulnerable to and affected by HIV;
- Raise awareness among all stakeholders of the negative impact of stigma and discrimination on the response to HIV/AIDS;
- Ensure citizens’ oversight for the effective and efficient implementation of HIV/AIDS plans, policies and programmes;
- Work in close collaboration with other actors in order to achieve a synergy of actions capable of positively influencing the solutions to the challenges related to the fight against HIV and the protection of PLHIV;
- Disseminate the African Commission's study on "HIV, Law and Human Rights in the African Human Rights System: Key Challenges and Opportunities for Rights-Based Responses to HIV".

- **To UN specialized agencies and other development partners:**

  - Give due attention to the emerging issue of the relationship between human rights and HIV/AIDS and to the mandate of the African Commission as an integral part of the overall framework for the promotion and protection of fundamental human rights;
  - Provide technical and financial support to States, NHRIIs and NGOs in their activities, programmes, projects and policies to combat HIV/AIDS and to provide legal protection for the rights of PLHIV and groups at risk;
  - Support the African Commission and the Committee for the popularization of its study on HIV, the law and human rights;