

ACHPR Res. 290 (EXT.OS/XVI) 2014: Resolution on the Need to Conduct a Study on HIV, the Law and Human Rights

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 16th Extraordinary Session held from 20 to 29 July 2014 in Kigali, Republic of Rwanda;

Recalling its mandate to promote and protect human rights under the African Charter on Human and Peoples' Rights (the African Charter);

Noting that Article 45(1)(a) of the African Charter gives the Commission the mandate to "collect documents, undertake studies and researches on African problems in the field of human and peoples' rights" with a view to promoting and protecting human and peoples' rights on the continent;

Further noting, *inter alia*: the Continental Framework for Harmonization of Approaches among Member States and Integration of Policies on Human Rights and People Infected and Affected by HIV/AIDS in Africa (2005); the Brazzaville Commitment on Scaling up Towards Universal Access to HIV and AIDS Prevention, Treatment, Care and Support in Africa by 2010; and the Roadmap on Shared Responsibility and Global Solidarity for AIDS, Tuberculosis and Malaria Response in Africa (2012);

Recalling its previous Resolutions: *ACHPR/Res.53 (XXIX) 01*, on the HIV/AIDS Pandemic - Threat Against Human Rights and Humanity; *ACHPR/Res.141(XLIV)08*, on access to health and needed medicines in Africa; *ACHPR/Res.163(XLVII)10* on the establishment of the Committee on the Protection of the Rights of People Living with HIV (PLHIV) and those at Risk, Vulnerable to and affected by HIV; and *ACHPR/Res.260(LIV)13*, on Involuntary Sterilisation and the Protection of Human Rights in Access to HIV Services;

Considering the obligations of States Parties under the African Charter and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol) among others, to protect and promote the rights of people living with HIV (PLHIV);

Concerned that PLHIV continue to be victims of discrimination, stigma, prejudices, status-engendered violence and harmful customary practices in many States Parties;

Further concerned about the numerous obstacles faced by PLHIV in accessing HIV prevention, treatment, care and support services, as well as other forms of health and psycho-social services, and the punitive

legal environment which prevents effective responses to the HIV pandemic in many States Parties;

Conscious that this situation which is a violation of their human rights has a significant impact on their ability to participate actively in the socio-economic and political processes of their countries and the continent in general;

Determined to ensure the promotion and protection of the rights of PLHIV, focusing on best practices and opportunities for a rights-based approach to HIV for the effective protection of the rights of PLHIV;

Noting in particular the mandate of the Committee on the Protection of the Rights of People Living with HIV (PLHIV) and those at Risk, Vulnerable to and affected by HIV (the Committee) to *“recommend concrete and effective strategies to better protect the rights of people living with HIV and those at risk”*;

Convinced that the conduct of a study on HIV, the legislative/legal frameworks and human rights will contribute to the promotion and protection of the human rights of PLHIV;

Decides to:

- i. Undertake a study on *“HIV, the Law and Human Rights in the African Human Rights System: Key Challenges and Opportunities for Rights-based Responses to HIV”*;
- ii. Assign the Committee the task of conducting the study and to present a report, for consideration and adoption, during its 57th Ordinary Session; and
- iii. Call on stakeholders in the promotion and protection of the rights of PLHIV to support the Committee in conducting the study.

Adopted at the 16th Extraordinary Session of the African Commission on Human and Peoples’ Rights held from 20 to 29 July 2014 in Kigali, Republic of Rwanda