**OHCHR – REMARKS OF THE SADC-PF DURING PANEL 2 OF THE CONSULTATION ON HUMAN RIGHTS IN THE HIV RESPONSE**

**Panel 2: Improving human rights in the HIV response through regional and sub-regional strategies**

***I. Introduction***

Distinguished colleagues and fellow panellists,

It is with immense pleasure that I appear to intervene on this Panel in view of contributing to the discussions on human rights in the HIV response from a regional perspective.

I would like to start by congratulating the organisers for the relevance of this Consultation which is an eye-opener and which underscores the interdependence of the HIV response with the existing human rights framework.

As you are aware, I represent the SADC Parliamentary Forum which is the apex inter-parliamentary organisation of Southern Africa comprising of 14 Member Parliaments and representing over 2500 Parliamentarians of the region. My input on this Panel will thus be parliamentary centric and I hope that it can assist the audience in better understanding the ways and means Parliaments can advance human rights in the HIV response.

In this respect, I would like to share some insightful perspectives in regional strategy from experiences encountered at the level of the Forum.

***II. The SADC region***

Generally, the SADC region is the region which is notoriously known to be hit hardest by HIV/AIDS. Eastern and Southern Africa is home to over 50% of the world’s People Living With HIV (PLWH) and accounts for over 40% of the world’s HIV infections. In some countries of SADC, HIV prevalence rate is as high as 20%, which means that 1 out of 5 citizens is infected with HIV. Against this stark background, the SADC Parliamentary Forum has on numerous occasions highlighted the link between the HIV response and human rights. This is particular important because when HIV prevalence escalates to alarming rates in some countries, then the Executive is inclined to take drastic measures to eliminate HIV, including for instance criminalisation of HIV transmission, persecution of key populations, and disclosure of HIV status to name and shame PLWH so that they are chased away from communities or regions. Thus, one of the early findings of the Forum was that the national HIV response in SADC could not be advanced comprehensively until and unless it was buttressed by a robust human rights framework which guarantees human dignity for all without exception, and eliminates the stigma and discrimination associated with a positive HIV status.

***III. Observations by the Forum on the link between human rights and HIV***

Whereas HIV is a public health issue, it can only be addressed by upholding strong human rights principles such as the right to privacy, the right to physical integrity and furthermore the right to education, information, and health, as underscored by Resolution 38/8. Moreover, in the context of access to ARVs, there is a need to conduct a balancing exercise between the economic right of the manufacturer to reap benefits claimed under patent rights, and the right to health and life of patients who are in dire need of affordable medication. Without a strong human rights backbone, HIV responses will remain weak, uncoordinated and will lack long-term sustainability. It is trite that the HIV/AIDS response by the State only becomes a response, if at all, when it is human rights-friendly.

***IV. Developing Model Laws as part of the Regional Strategy***

From a parliamentary perspective, the Forum has thus found that a core part of the regional strategy to link HIV and human rights is to develop normative content (Model Laws, Minimum Standards etc) which serve as yardstick to national Parliaments. The Forum as a benchmarking organisation for SADC national Parliaments, had thus developed the SADC Model Law on HIV in Southern Africa which contained essential principles that linked human rights to the legal provisions required to ensure an adequate HIV response, and many of the provisions in fact respond to the challenges outlined by Resolution 38/8. For instance, the need to preserve HIV patient confidentiality as provided for in the Model Law reflects the human right to privacy, and the legal requirement for voluntary (as opposed to mandatory) HIV testing protects the human right to physical integrity. Moreover, the Model Law also alludes to comprehensive sexuality education within a life skills framework as an important part of the HIV response, and this embodies the human right to education. Thus, Model Laws which are developed regionally, through inclusive participatory processes, thus constitute a “one stop” resource material for Parliamentarians.

Since human rights is essentially a legal and constitutional issue, Parliaments are main drivers of change to associate the HIV response with human rights law through targeted parliamentary interventions. In this regard, normative content developed by the Forum serves to guide national Parliaments on the substance of the legislation, facilitates the legislative drafting process and moreover   ensures the domestication of human rights provisions in national HIV laws.

The regional strategy embraced by the Forum also encourages Member Parliaments to legislate on HIV, as the legislative process will ensure balanced and informed deliberations to occur on the theme in the House of Parliament, both by the Government and the Opposition, and thus ensure that root causes are identified and that human rights standards are infused in legislation, in line with the requirements of Resolution 38/8.

***V. Building capacity of MPs for oversight functions***

The regional strategy of the Forum also aims at building capacity of Parliamentarians to conduct oversight through Parliamentary Committees and other parliamentary governance mechanisms that can interrogate executive action with regards to compliance with human rights. Often it was found that national Parliaments do not, on their own, possess the required capacity to support Parliamentarians in human rights knowledge and HIV response, and the Forum thus facilitates this process through its Standing Committees that work towards raising awareness on these key topics and their implications for the region.

***VI. Importance of inter-parliamentary cooperation***

Furthermore, I would like to highlight the significance of inter-parliamentary cooperation in discussing the interconnections between human rights and the HIV response. By bringing Parliamentarians from different Member States together on its relevant Standing Committees, the Forum has given the adequate room for cross-learning on parliamentary practice to successfully occur and for Parliamentarians to learn from the challenges encountered in the legislative process of other Member States. This sharing of experiences in the development of HIV laws thus saves the time of national Parliaments and speeds up the drafting process. The Forum in this respect acts as a facilitator to moderate the debate and to highlight the key success stories.

***VII. Establishment of the Oversight Committee***

In addition, the Forum has recently established a new organ, called the Regional Parliamentary Model Laws Oversight Committee, which is composed of Chairpersons of all Standing Committees of the Forum, and is tasked with the monitoring of the domestication of Model Laws, including the Model Law on HIV in Southern Africa. This was found to be important in view of creating a database of information garnered from relevant Ministries, through national Parliaments, and taking stock of domestication efforts of HIV legislation in each Member State, in view of formulating targeted recommendations.

***VIII. Conclusion***

The road towards linking human rights with the national HIV response, in a standardised manner, is an uphill one, but yet Parliaments can be made to play a significant role in accelerating the process. As mentioned in Resolution 38/8, awareness needs to be raised with all authorities concerned, and thus Parliament, the Executive, Civil Society Organisations and national HIV authorities need to work together towards the incorporation of human right standards and ensure that those standards are enforced to improve the HIV response.

In this journey, inter-parliamentary entities such as the Forum can act as facilitator and enabler for knowledge sharing and transfer, and in sharing experiences across countries and between other inter-parliamentary systems.

***Remarks by Ms B.Sekgoma,***

***Acting Secretary General of the SADC Parliamentary Forum***