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Key Note address, Technical Forum on HIV in Prisons

15 and 16 March 2016, in Lusaka, Zambia

BY HONOURABLE COMMISSIONER MED S.K. KAGGWA

**COMMISSIONER AND SPECIAL RAPPORTEUR ON PRISONS, CONDITIONS
OF DETENTION AND POLICING IN AFRICA,
AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS**

Distinguished Participants, Ladies and Gentlemen

It is a real honor for me to be part of this important **Forum on HIV in Prisons**.

This is an important meeting because HIV is a global concern albeit Africa is one of the most affected continents, particularly Sub-Saharan Africa. Indeed, studies have shown that out of the approximately 36.9 million people living with HIV in the world, about 25.8 million of those people live in Sub Saharan Africa. It is also reported that Sub-Saharan Africa accounts for almost 70% of the global total of new HIV infections¹. Prisoners' right to health ought to be respected like anyone else's right to the same. The deprivation of liberty should not stop prisoners from the enjoyment of their right to health. Furthermore, prisoners have contact with the outside population while in prison and/or upon release hence the risk of transmission of Sexually Transmitted Diseases (STDs) such as HIV is real and must be prevented.

Distinguished Participants, Ladies and Gentlemen

This forum is important to me as in my capacity as Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa because I monitor the human rights observance in places of detention in Africa. This mandate has been established to examine the situation of persons deprived of liberty within the territories of states party to the African Charter on Human and Peoples' Rights (the African Charter). Recently, during its 18th Extraordinary Session, held from 29 July 2015 to 7 August 2015 in Nairobi, Kenya, the African Commission on Human and Peoples' Rights (the Commission) expanded the mandate of the Special Rapporteur on Prisons and Conditions

¹End of 2014 Statistics ; available on <http://www.who.int/mediacentre/factsheets/fs360/en/>

of Detention in Africa to cover matters relating to Policing and Human Rights so the updated title is: Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa. This meeting is therefore relevant to the Commission because it enables the sharing of experience in matters related to HIV in prisons.

Distinguished Participants, Ladies and Gentlemen

Challenges exist in terms of preventing and eradicating HIV in Africa; as well as conditions of detention in prisons, particularly with regard to health. Allow me to recall the main factors that negatively affect the prevention and treatment of HIV in our prisons:

- ✓ **Limited Special Treatment for Vulnerable Groups (Women and Children):** Sometimes women and men in detention share the same facilities. The lack of supervision from the prisons guards enables this situation and sometimes leads to sexual violence against women. Furthermore, prisons staff sometimes fail to respect ethics while conducting their jobs and they are sometimes themselves instigators of rape in prisons. Juveniles as well as vulnerable persons are at times victims of rape in prison.

- ✓ **Lack of Health Care:** Medical health facilities, where available in prisons in Africa, do not always have the necessary equipment; medication and adequate medical practitioners to treat all the prisoners in need of medical attention in a given prison. The shortage of professional medical staff to sensitize prisoners on the risk of HIV infection they are face is unfortunate. This situation is not favourable

for the prevention and treatment of HIV infection, including mother-to-child transmission of HIV.

- ✓ **Limited Access to Basic and Vital Needs:** Prisoners lack food in Africa. They often have only one meal a day and the quality of the meal is usually poor. Clean drinkable water is often lacking too or not enough. The lack of such basic needs encourages prostitution among inmates and with prisons staff in exchange for material and/or monetary benefits as a means to an end which in this case is acquisition of basic needs.

- ✓ **Taboo related to Same-Sex Sexual Relations:** in Africa, sex by itself is a taboo and more so same-sex sexual relations. Homosexuality is criminalized in several countries; therefore, cases of homosexual rape in prisons as well as consensual same-sex relations are seldom reported or documented for that matter.

- ✓ **The lack of Complaint Handling Procedures in Prisons** does not help to reduce/eradicate sexual and physical violence in general in prisons. In fact it aggravates the situation.

Distinguished Participants, Ladies and Gentlemen

One factor that is often overlooked that consequently limits our ability to tackle the issue of HIV in prisons, in Africa in particular, is the lack of documented scientific research. Research would provide empirical data which could be used to analyse and understand the specific concerns of vulnerable groups as well as provide a solid basis from which to make recommendations for the improvement of HIV management in prisons.

Without conducting a proper baseline survey, we will continue to discuss HIV in prisons in a generic manner and our efforts to find lasting solutions to address HIV-related issues in African prisons may be futile.

I hope that in that in this forum, we shall share relevant experiences on HIV in prisons. Furthermore, I do hope that the forum will reflect on and share views on strategies to undertake and document scientific research on HIV in prisons. In that regard the key questions to consider are: **who should conduct the research? When and where should the research be conducted? How should the research be conducted? How will the findings be shared and used?**

Distinguished Participants, Ladies and Gentlemen

These are questions addressed to all of us here today because although states obviously have the primary duty to take the necessary measures to guarantee the protection of human rights including the right to health for prisoners, all stakeholders have a key role to play which can make a significant, positive change.

Today we have the opportunity to discuss these questions thoroughly, let us do so without reservation.

I wish us fruitful deliberations in this forum!

I thank you!