



## **SOUTHERN AFRICA REGIONAL OFFICE QUARTERLY REPORT: OCTOBER – DECEMBER 2005**

### **I. Executive Summary**

Numerous important events marked this quarter in the region: the 16 Days of Activism Against Gender Violence Campaign, World Aids Day, Human Rights Day and the coming into force of the Optional Protocol to the African Charter on Human and People's Rights.

The 25th of November marked the start of the 16 Days of Gender Activism Against Violence, an international campaign meant to raise awareness about gender violence, strengthen the work of local organizations and demonstrate support to women around the world who are victims of abuse. As it has become tradition, one of the main focus of the International Day Against Violence Against Women (November 25th) and the International Human Rights Day (December 10) was the campaign on violence against women, highlighting the human rights dimension of women's rights. November 25 was also an especially important day for African women, as it is the day that the Protocol on the Rights of Women in Africa came into force. Having been ratified by the requisite 15 African countries, this extremely important treaty contributes significantly towards the promotion and realization of the rights of African women.

The gender dimension of the HIV/AIDS epidemic continued to be the focus of research in the region. As the Centre for AIDS Development, Research and Evaluation for the South African Department of Health states, patterns of HIV transmission, incidence and prevalence are structured by gender and social inequalities, within which violence against women and girls is embedded. Gender-based violence is a risk factor for HIV-infection and an HIV-positive diagnosis may be followed by gender-based violence. Although positive strides have been made by many countries in the region to fight the scourge of the epidemic, in other parts there is still resistance and/or a failure to recognize AIDS as an emergency that requires greater efforts in addressing it.

The Southern Africa Regional Office (SARO) continued to provide technical support to its partners and worked in collaboration with the UN Country Teams (UNCTs), Special

Rapporteurs, specialised working groups, National governments, National Human Rights Institutions and Civil Society. The Regional Representative undertook various missions in the region. During the same period the Regional Office organized in collaboration with other UN agencies based in South Africa, a training workshop for UNCT on gender and human rights. In South Africa steps were taken to work closely with regional institutions such as the New Partnership for Africa's Development (NEPAD), Pan African Parliament (PAP) and Southern Africa Development Community (SADC) with a view to strengthening relations and defining areas of common collaboration.

Technical and logistical support was provided to Special Rapporteurs and Specialised working groups, and the Office supported the mission that was undertaken by the Special Rapporteur on Disability to South Africa in November.

## **II. Human Rights Situation, Developments and Concerns**

### **II.1 Civil and Political Rights:**

Human rights violations continued to be reported in some countries of the region while others are taking continued progress towards good governance and democracy. Some countries such as Zambia and Zimbabwe continue to experience difficulties with the rule of law, good governance and democracy. During this reporting period the government of Zimbabwe decided at its national conference that it would no longer allow 'clandestine' UN envoys into that country. This followed the visits by the UN Envoy (Anna Tibaijuka) and the UN envoy on humanitarian affairs and relief aid coordinator, Jan Egeland.

#### **South Africa**

The Constitutional Court acknowledged the denial of equal protection of the law, as well as the unfair discrimination by the State against gays and lesbians. As such, the Court was unanimous in declaring the common law definition of marriage and the Marriage Act unconstitutional, as they infringe the right to equality and dignity. Furthermore, in line with previous decisions, the Court asserted the rights of gays and lesbians to access equal benefit and protection of the law.

Gender violence remains a concern in South Africa. Several stories of gender-based violence dominated the headlines during the Sixteen Days of Activism campaign that ran from 25 November (International Day of No Violence Against Women) to 10 December (Human Rights Day). According to newspaper reports women and children continue to be raped and in some cases even killed at the hands of their perpetrators. This issue is among the top priorities of government and civil society mobilization against crime in the country

#### **Tanzania**

In Zanzibar (Tanzania's semi-autonomous island), elections took place on 30 October, with the ruling Chama Cha Mapinduzi (Party for the Revolution) winning the elections. Zanzibar's President Amani Karume was sworn in after being re-elected. Mr Karume rejected opposition claims of fraud. Violence by police and members of both parties was reported but international observers described the vote as generally free and fair.

In December in mainland Tanzania, the ruling Chama Cha Mapinduzi party (CCM) won presidential and parliamentary elections by a huge margin.

The CCM presidential candidate, Jakaya Kikwete, won 80.2 percent of the vote. He is the country's fourth president since the country gained independence from Britain in 1961 and is taking over from President Benjamin Mkapa, 68, who is stepping down after two five-year terms, the maximum allowed under the constitution.

Election observers mission called the elections "free, fair and transparent" and highlighted that they had been conducted in a peaceful manner.

## **Zambia**

Thousands of Zambian demonstrators, many wearing green ribbons and carrying fresh-cut branches as a sign of protest, marched on parliament on 1 November to insist that a constituent assembly be convened, to pass a new constitution for the country. They also wanted the new constitution in place before next year's presidential election - a target President Levy Mwanawasa has said would be impossible to meet.

The Zambian government has refused to give in to pressure for a constituent assembly to approve a new constitution ahead of next year's presidential polls.

Freedom of press remains another issue of concern in Zambia: on 4 October 2005, Q-FM radio reporter Wamunyima Walubita was forced to erase material from his tape recorder which documented his mistreatment by police in order to secure his release from detention. Walubita told the Media Institute of Southern Africa (MISA) Zambia on 6 October that he was picked up by police while covering a riot by students from Evelyn Hone College, who were protesting against declining education standards at the institution.

A Zambian editor was arrested for allegedly criminally defaming President Levy Mwanawasa. Police arrested Fred M'membe, managing director and editor-in-chief of The Post, Zambia's only privately owned daily newspaper, after he accused the country's president of "foolishness", among other invectives.

## **Zimbabwe**

According to reports in Zimbabwean newspapers, President Robert G. Mugabe has placed between 15 and 64 human rights activists and critics on a list of people who are banned from traveling outside the country because they allegedly threaten the country's national interests. The ministries of Justice and Foreign Affairs are deliberating draft regulations that will require Zimbabweans to obtain exit visas to travel outside the country.

## **II.2 Socio- economic and cultural Rights**

In December 2005, UNAIDS released its 2005 report. According to it, Southern Africa remains the epicentre of the global AIDS epidemic. With the exception of Zimbabwe, countries of southern Africa show little evidence of decline in the epidemic. HIV prevalence levels remain exceptionally high (except for Angola), and might not yet have reached their peak in several countries – as the expanding epidemics in Mozambique and Swaziland suggest. Women remain disproportionately affected by HIV in the region. Progress in expanding treatment and care provision in sub-Saharan Africa in the past year has been

uneven. At least one third of people in need of antiretroviral therapy are receiving it in such countries as Botswana while in Malawi and Zambia between 10% and 20% of people requiring antiretroviral drugs were receiving them in mid-2005. At least 85% (almost 900 000) of South Africans who needed antiretroviral drugs were not receiving them by mid-2005; the same applied to 90% or more of those in need in countries such as Lesotho, Mozambique, Tanzania and Zimbabwe. It should be noted that although Botswana is among the trend-setters in accelerating universal access to antiretroviral therapy (ARV) not all those who are within its borders benefit from this policy. In this regard, Botswana does not offer therapy (ARV' and prevention –of-mother-to-child (PMTCT) to refugees in that country, some of who had to be taken out of the treatment programmes.

## **Lesotho**

The Kingdom of Lesotho, a nation afflicted by one of the world's worst AIDS pandemics, is to become the first country in the world to offer HIV tests to its entire population. Its ministers and public health officials announced a 12 million (7 million) programme to test the 1.9 million people living in the mountainous enclave within South Africa for the human immunodeficiency virus. In a groundbreaking move for African healthcare, King Letsie III of Lesotho is likely to become the first monarch to take the test publicly. It is suggested that such initiatives, such as making testing available to all, will help reduce the rise in HIV infection.

## **South Africa**

The land reform remains a complex and sensitive issue in South Africa. The slow move observed in the process and the unsettlement of many outstanding claims has led the Government to declare that it will review the willing-buyer willing-seller policy, land acquisition models and the possibility of price manipulation.

## **Swaziland**

Although Swaziland is among the countries with high HIV prevalence rates, it faces serious drug shortages. Some hospitals stay without the supply of drugs for weeks on end.

In response to the growing alarm over Swaziland's HIV infection rate, a draft law proposing the death penalty for child rape and the intentional transmission of the virus was released. «Any person who is convicted of rape under this bill is liable to the death penalty if the victim is below the age of 14 years, or to the death penalty if HIV and AIDS are an aggravating factor, or to the death penalty where such person has parental power over the child," reads the Sexual Offences and Domestic Violence Bill of 2005.

## **Zambia**

HIV prevalence remains high in Zambia. New infections are still occurring at significant rates in parts of the country.

## **Zimbabwe**

A UNAIDS report released late 2005 reveals that there is a decline in HIV prevalence in Zimbabwe. Even though that is the case, people living with HIV/AIDS (PLWHA) still face many problems such as access to services. The plight of PLWHAs can be attributed to the Zimbabwe government's recent controversial clean-up drive. 'Operation Restore Order' left some 700,000 people without homes or livelihoods and also denied PLWHAs access to antiretroviral treatment. A survey by the Bulawayo-based Matabeleland AIDS Council (MAC) states that about 200 terminally ill people had been displaced by the clean-up campaign and most were in dire need of food, clothes and drugs. It was also difficult for AIDS workers to locate evicted PLWHA, who were often unable to continue their treatment as a result.

Police in Zimbabwe (Harare) disrupted World AIDS day commemoration by People Living with HIV & AIDS (PLHAs). This was despite the fact that the activities had initially been authorized by the police themselves- after a court action compelling them to do so.

### **III. Activities Carried out:**

#### **III.1 Support to Special Rapporteurs and specialised working groups**

1. SARO, in collaboration with Department of Foreign Affairs, provided technical and logistic support to the Special Rapporteur on Disability during their visit to South Africa on 20-25 November 2005. The mission was conducted at the South African government's invitation. The purpose of the Special Rapporteur's visit was to assess the situation of people living with disabilities, the implementation of the Standards Rules in SA and help to identify the barriers and obstacles that face the implementation of the Standard Rules. During the mission there were conversations with the Government authorities at the national and provincial level, organizations of civil society and the United Nations Country Team and non-governmental organisations.

#### **III.2 Support to UNCTs**

1. The Regional Representative undertook a mission to Zimbabwe from October 17 to 20, 2005 to identify the role that OHCHR could play in the UN's activities in monitoring human rights in Zimbabwe. She met members of the UNCT, government officials and members of the civil society in Zimbabwe.
2. The Regional Office conducted a Human Rights and Gender training workshop for UNCT on CCA/UNDAF and the Human Rights Based Approach on 13 & 14 October 2005 in Pretoria, South Africa. The achievement of the workshop is that concrete recommendations to mainstream HR within UNCTs were made and were shared with UNCT at CCA Symposium with objective of reflecting on the CCA process.
3. The Regional Representative participated in CCA workshop held in Seychelles from November 7-12 2005 with the view of mainstreaming the Human Rights Based Approach (HRBA) in the process. She also met with government officials, civil

society organisations and discussed the assistance to be provided to the country in 2006.

4. The Regional Representative undertook a mission to Mauritius to conduct capacity building for government partners (parliamentarians, religious leaders and the Minister of Justice) and also to facilitate workshops organised by the UNDP for the campaign on 16 days against violence against women and children on 27 November to 2 December 2005. She met with the Deputy Prime Minister, the Minister of Justice, the Minister of Women and Children Affairs as well as high level official in the judiciary, the prison and the Human Rights Commission.
5. SARO assisted Zambia in finalising its National Development Programme.
6. SARO continued to provide support to the South African (SA) UNCT and the government in the development of the CCA/UNDAF 2007-2011.
7. SARO continued to participate in the SA Technical working Group on HIV and AIDS, which assists the government of South Africa in implementing its programmes on HIV and AIDS. SARO's role is to ensure that there is rights based approach in those programmes.

### **III.3 Support to National Institutions and civil society**

1. ACCORD invited the Regional Office to participate in a training workshop that took place in Durban, South Africa on November 22 2005. The National Programme Officer did a presentation on "OHCHR's role in peacekeeping Missions".
2. The Regional Representative and National Programme Officer participated at a National Racism Indaba held in Pretoria, South Africa on 15 December 2005. The Regional Representative addressed the Conference on behalf of the High Commissioner who had been invited to the Conference.
3. The Regional Representative participated in the celebrations of 10 years of the Truth and Reconciliation Commission, Pretoria on 16 December 2005.

### **III. Up-coming Activities for the Next Quarter**

In addition to the technical advisory services and capacity building provided by the OHCHR, the office will:

#### *Support to UNCTs*

1. SARO will continue to participate in the steering committee for the CCA/UNDAF, which is developing a new UNDAF for South Africa.
2. SARO will continue to participate in the technical working group on HIV/AIDS and will define the activities it will be part of in regard of the joint programme between UN Agencies.

3. SARO is part of the RDT gender cluster which will provide gender and rights mainstreaming and programming support to UNCTs in the region
4. SARO intends to partner with Regional Service Centre on joint programming support to UNCTs in the region on HIV and AIDS, food security and strengthening of the rule of law.

#### *Capacity building*

1. As follow-up to recommendations from the chief of Justice Conference on Human rights and the African Dialogue III that took place respectively in Kasane and Addis Ababa, engage in the preparation for the organization of a training workshop for the Judiciary and Parliamentarians of the Southern Africa region.
2. Continue collaboration with the Pan African Parliament, NEPAD and SADC in strengthening capacity of these institutions in mainstreaming human rights in their programmes.

#### *Advocacy and Information Dissemination*

1. Finalise the compilation report of workshops conducted by SARO between 2002 and 2005.
2. Development and launch of the Regional Office's website in order to respond to the wish express by government bodies and civil society organizations to promote human rights and awareness on States' obligations

#### *Support to National Human Rights Institutions and processes*

1. Provide ongoing support to the government of SA, SAHRC and other stakeholders in preparation for a conference on Durban + 5, which seeks to develop a plan of action that will assist in implementing the Durban Plan of Action.
2. Provide ongoing support to the government of Lesotho in setting up its NHRI.
3. Provide support to the Comoros in finalising the setting up of its NHRI.
4. In cooperation with UNDP Madagascar provide support to Malagasy authorities in the process of revitalizing the National Human Rights Commission.
5. Engage talks with the Mozambican Ministry of Justice in view of the establishment of a Human Rights Commission in Mozambique.