



CONSULTANCY TO CONDUCT THE LEGAL AUDIT ON UHC, SRHR AND HIV/TB PREVENTION IN SOUTHERN AND EAST AFRICA REGION

Background

Established in 2003, the AIDS and Rights Alliance for Southern Africa (ARASA) is a regional partnership of over 100 non-governmental organisations working together to promote a human rights-based response to HIV and TB in 18 countries in Southern and East Africa through capacity strengthening, advocacy and research and learning. The Regional Office of ARASA is located in Windhoek, Namibia.

Organisational Profile

ARASA has a new strategy (2023-2028) which is the road map for its Increased Capacity, Coordination, and Accountability for Equality, #ICCA4EQUALITY work. ARASA envisions a healthy and just Southern and East Africa where Every Body Counts. The mission is to be a leading convener, space creator, advocate, and contributor for the establishment of a socio-political and regulatory frameworks that contribute towards reduced HIV and TB infections, SRHR and equality.

Guided by the PANEL Principle (Participation, Accountability, Non-discrimination and equality, Empowerment, and Legality), ARASA's core values are -Transparency and Accountability, Integrity and Dependability, Zero tolerance for corruption; and Justice and Tolerance.

ARASA's strategic direction is based on the following principles: meaningful and measurable involvement of civil society; empowered citizens and responsive governments; human rights approach, especially working with people living with HIV and populations most at risk of HIV infection; equity and gender equality; provision of evidence of change and technical knowledge; based on the principle of non-discrimination and based on inclusivity. The following roles will be filled in an ongoing process.

Context

In 2015, Member States of the United Nations adopted the 2030 Agenda for Sustainable Development and its accompanying Sustainable Development Goals (SDGs), with the third goal of the agenda focusing on health – good health and well-being. Most countries in this region have weak public health systems and receive considerable external support. Universal Health Coverage (UHC) is a popular global health policy agenda and particularly in Southern and East Africa. The health ambition is not yet aligned to the UHC target. Globally, significant progress has been made in reducing the spread of HIV and improving access to SRH services. The annual number of new HIV infections has steadily declined. Despite these impressive gains, HIV and maternal mortality are still two primary causes of death in women of



reproductive age worldwide. And the impact is felt greatest in sub-Saharan Africa, where the highest number of people living with HIV live.

ARASA recognises that, while its work has immensely contributed to the advancement of UHC, HIV and TB responses and SRHR in Southern and East Africa, the battle is not over until legal and policy changes are fully effected and implemented. Civil society's efforts to increase the removal of legal barriers as well as to increase legal literacy, access to justice and positive law enforcement need to be broadened to contribute to the achievement of the Sustainable Development Goals (particularly Goals 3: Good Health and Wellbeing; Goal 5: Gender Equality; and 10 Reduced Inequality) and the African Union Agenda 2063. Systematic sexual and reproductive rights violations, fuelled by barriers embedded in laws, policies, the economy, social norms, values and gender inequality persist across Southern and East Africa and, in some countries are escalating. These include laws that restrict women's and adolescents' access to health services by requiring third-party authorisation, require service providers to report personal information, criminalise same-sex relationships and sex work and prohibit provision of and access to abortion services amongst others. Punitive laws, policies and practices have severe implications on human rights in the region.

Cognisant of this, the African Union (AU) has adopted several health and health-related policies aimed at improving the health status of the African people. The obligations and commitments of countries in the SEA region regarding SRHR, UHC and HIV/TB prevention are drawn from various international and regional laws and policies. Some of the important international and regional treaties, policies, and related documents that inform these obligations and commitments include:

- i. African Commission on Human and Peoples' Rights, General Comment No. 2 on Article 14.1 (a), (b), (c) and (f) and Article 14.2 (a) and (c) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2014.
- ii. African Commission on Human and Peoples' Rights, General Comment No. 1 on Article 14 (1) (d) and (e) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2012.
- iii. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).
- iv. Political Declaration on HIV and AIDS: On the Fast Track to Accelerating the Fight against HIV and to Ending the AIDS Epidemic by 2030.
- v. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.
- vi. Southern African Development Community (SADC) Gender Protocol.

There has also been obligations and commitments of SEA region which have been derived from a wide range of international and regional laws, policies, guidance, goals, and expert reports and these include:

- i. Fast Track Commitments to end AIDS by 2030.
- ii. African Union (AU) 2063 Agenda.
- iii. Common African Position on the World Drug Problem, 2016.
- iv. International Conference on Population and Development Programme of Action.
- v. Maputo Plan of Action 2016-2030.
- vi. Transforming our world: the 2030 Agenda for Sustainable Development.



- vii. SADC Minimum Standards for the Integration of HIV and Sexual & Reproductive Health
- viii. in the SADC Region.
- ix. SADC Regional Strategy for HIV Prevention, Treatment and Care and Sexual and Reproductive Health and Rights among Key Populations, 2018.
- x. Reproductive Health and Rights among Key Populations, 2018.
- xi. AU Catalytic Framework to end AIDS, TB and Malaria in Africa by 2030.
- xii. UNAIDS Agenda for Zero Discrimination in Healthcare Settings.
- xiii. The African Committee of Experts on the Rights and Welfare of the Child Africa's Agenda for Children 2040.
- xiv. Organization of African Unity, Abuja Declaration on HIV/AIDS, TB and Other Related Infectious Diseases, 2001.
- xv. Africa Health Strategy: 2016 - 2030.
- xvi. Nairobi Strategy: A Human Rights-Based Approach to TB.
- xvii. Ten Commandments on MDR-TB.
- xiv. AU Gender Policy, 2009.
- xx. Eastern and Southern African Commitment on Comprehensive Sexuality Education, 2015.
- xxi. AU Addis Ababa Declaration on Population and Development in Africa beyond 2014, 2013.
- xxii. 2020 Civil Society Consultation on Progress of HIV Prevention in SADC
- xxiii. SADC SRHR Strategy and Scorecard (2019-2030), 2018.
- xxiv. The Nairobi Summit on ICPD25 Commitments: Accelerating the Promise.
- xxv. The Lancet Global Health Commission on Gender-Based Violence and Maltreatment of Young People (2020)
- xxvi. The United Nations Population Fund State of World Population report (2023)
- xxvii. The World Health Organization's Global Strategy on Digital Health (2020)

In addition, in accordance with international and regional law and the recommendations of expert bodies, States are urged to adhere to the following cross-cutting standards:

- i. Remove legal, regulatory, and policy barriers that impede access to sexual and reproductive health (SRH) commodities and programs.
- ii. Take decisive measures to dismantle socio-cultural structures and norms that perpetuate gender-based inequality. This includes reviewing and addressing discriminatory elements found in laws, policies, plans, administrative procedures, and resource allocation related to contraception/family planning and safe abortion. States should work towards eliminating discrimination against women, ensuring constitutional and legislative frameworks uphold gender equality, and enacting appropriate sanctions when necessary.
- iii. Ensure that legislative measures, administrative policies, and procedures are in place to prevent any coercion or forced use of specific contraceptive methods, sterilization, or abortion based on a woman's HIV status, disability, ethnicity, or any other circumstance.
- iv. Enact anti-discrimination legislation to address HIV- and sexually transmitted infection related discrimination, stigma, prejudices, and practices that increase women's vulnerability to HIV and violate their rights. States must promptly address and remove



discriminatory laws and policies that hinder women's access to sexual and reproductive health services.

- v. Address discrimination and violence faced by key and vulnerable populations, ensuring their access to equitable SRH services.
- vi. Implement national HIV strategies that empower people living with, at risk of, and affected by HIV, enabling them to be aware of their rights and to access justice and legal services to prevent and challenge human rights violations. This includes sensitizing law enforcement officials, legislators, and judiciary members, training healthcare workers on non-discrimination, confidentiality, and informed consent, supporting human rights learning campaigns, and monitoring the impact of the legal environment on HIV prevention, treatment, care, and support.

However, societal and legal impediments at national level inhibit quality HIV prevention, care, treatment and support services and need to be removed. Non-adherence to these commitments and treaties affect progress in combating HIV/AIDS and TB and advancing UHC and SRHR in Southern and East Africa.

Purpose of the Legal Audit

The legal audit will assess laws, regulations and policy guidelines, as well as law enforcement in the context of UHC, HIV/TB prevention and SRHR in South Africa, Botswana, DRC, Eswatini, Kenya, Lesotho, Malawi, Mozambique, Namibia, Uganda, Zambia and Zimbabwe.

The consultant will specifically:

- Explore the gaps in legislation across the region, provide a detailed conclusion and formulate specific recommendations.
- Assess in detail the laws, policies and practices that criminalise people with HIV for transmission, exposure or non-disclosure of HIV status, protect and promote SRHR and UHC.
- Examine the impact of the legal frameworks in the region that affect the effectiveness of responses by countries to SRHR, HIV/TB prevention and UHC.
- Identify gaps and challenges within the existing legal frameworks and give recommendations for developing a strengthened legal and regulatory framework for effective responses to HIV/TB prevention, UHC and SRHR.
- Assess the extent of the countries' compliance to relevant laws, policies, guidelines and processes including, but not limited to, the countries' constitutions and various pieces of legislation.

Please note: All reports, documents and outputs prepared by the consultant for this assignment shall become the property of ARASA and the consultant shall have an obligation to deliver such documents accompanied by their inventory upon expiration of the consultancy.

Method and approach

The consultant will develop a comprehensive methodology that they deem fit for the legal audit.



Qualifications

Interested candidates should have at least the following qualifications:

- Master's degree law, Public Health, Social Sciences or a relevant field with a focus on SRHR
- Demonstrated experience in leading regional research studies and review processes in the SEA region.
- A basic understanding of key Sexual and Reproductive Health and Rights (SRHR) challenges facing Southern and East Africa (particularly regarding the status of HIV prevention, access to safe abortion, sexual orientation and gender identity and SRHR in Universal Health Coverage) will be an added advantage.
- Demonstrated experience and knowledge in various methods and tools for conducting research.
- Past published regional research work will be an added advantage.

Assignment

The duration of the assignment is expected to be 30 working days from the contract signature date.

Deadline for Submission of Expression of Interest

A researcher who meets the requirements should submit an expression of interest which should include the following:

- A detailed description of the proposed methodology and work plan
- Budget for conducting the assignment.
- Additional information relevant to the assignment
- A profile of the legal firm and CV for the Senior Partner or detailed CV in case of individual consultant containing a full description of relevant qualifications, professional work experience as well past work samples as annexures.
- The deadline for the submission of the Expression of Interest is close of business on 31/03/2023.

All communications related to this consultancy should be addressed to procurement@arasa.info

