

STATEMENT BY

THE COMMUNITY LAW CENTRE, UNIVERSITY OF THE WESTERN CAPE

TO THE

**AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS AT THE 56TH
ORDINARY SESSION**

22 APRIL TO 7 MAY 2015

BANJUL, THE GAMBIA

'THE EBOLA VIRUS AS A HUMAN RIGHTS CONCERN IN AFRICA'

THE EBOLA VIRUS AS A HUMAN RIGHTS CONCERN IN AFRICA

The Community Law Centre is a non-profit research organization of the Law Faculty at the University of the Western Cape, South Africa. The CLC works to realize the democratic values and human rights enshrined in South Africa's Constitution. The Centre also seeks to advance human rights and democracy in Africa and engages in high quality research, public interest litigation, policy development, and advocacy. This statement of the Community Law Centre (CLC) focuses on the Ebola virus as a human rights concern in Africa.

The Community Law Centre at the University of the Western Cape, South Africa expresses its concern about the recent outbreak of the Ebola virus disease (EVD) in some African countries and its attendant consequences. The current outbreak has been lethal and has claimed many casualties ever recorded. The EVD is highly contagious and is currently not under control. According to the World Health Organization, the outbreak of Ebola virus disease (EVD), formerly known as Ebola hemorrhagic fever, in West Africa has continued to escalate with over 21,296 reported cases and more than 10,000 deaths but many go unrecorded. EVD is a severe and sometimes fatal illness with death rate of about 90%. Infections are thought to be doubling every few weeks. Some African countries such as Nigeria and Senegal initially threatened by EVD have been able to take drastic measures to curb its spread and even to completely eliminate it. CLC uses this medium to commend these African countries for their decisiveness and unflinching commitments to ensure safety of lives within their jurisdictions.

In the wake of the EVD that is ravaging parts of West Africa some governments have resorted to certain measures to curtail its spread within their borders. Some of these measures include using the military to enforce quarantined zones, imposing curfews and lockdowns, and screening people entering major towns and cities. These drastic measures tend to pose great threats to human rights guaranteed in the African Charter on Human and Peoples' Rights and sometimes raise tensions within communities, and lead to mistrust of governments. For instance, in August 2014 attempts by Liberian security forces to quarantine residents of the West Point district in Monrovia descended into violence. The outbreak has also led to serious stigmatization of individuals and whole communities suspected or confirmed to be infected or to have survived Ebola. Situations as these may undermine various human rights including rights to movement and liberty, dignity, life, equality and non-discrimination, health, work, education and freedom to be free from torture, inhuman and degrading treatment all guaranteed in the African Charter and other human rights instruments.

Indeed, the EVD outbreak has brought to the fore again the tension between public health and human rights. It should be noted that human rights are not absolute and may sometimes be limited. However, the scope and extent of such limitations is often a subject of contention. Generally, limitations of rights are permitted in certain circumstances such as for the protection of public health, order or morals; the national interest; national security, public safety or the wellbeing of the country; public order; the prevention of disorder or crime; or the protection of the rights and freedoms of others. Moreover, in accordance with the Siracusa Principles, rights can only be restricted if it is in accordance with the law, serves a legitimate objective of general interest, is strictly necessary in a democratic society, no less intrusive or restrictive means exist to achieve similar ends and restrictions are not arbitrarily imposed.

Currently, there is no approved vaccine or treatment for EVD; however, some experimental drugs are undergoing human clinical trials. This has heightened fears and concerns about the deadly disease. Given the high fatality rate of the EVD it is quite understandable the drastic steps and measures being taken by states to curb its spread. The Ebola incident has further reminded us how closely connected we are in this world and how vulnerable we could all be.

Distinguished Chairperson and honourable Commissioners,

It is important note that the outbreak of EVD in many of the affected West African Countries has had greater impact on women and children more than any other members of the society. Recent available data have shown that women and children are the worst affected by the virus. For instance, in Liberia, the government reported in September 2014 that 75 percent of those infected with or have died from Ebola are women, while UNICEF reported that women account for 55 to 60 percent of deaths in the three worst affected countries. A recent report by UNICEF shows that at least 3,700 children in the region have lost one or both parents to Ebola. These children face stigmatization, rejection and other human rights abuses due to fears by extended family members of contracting the virus.

Furthermore, the inability of some governments to adequately respond and provide care for victims of EVD in the affected region has exposed the weakness and lack of infrastructure in the health care systems of some African countries. This clearly requires urgent attention from African governments to address the situation. It must be emphasized that the outbreak of EVD in Africa has impacted virtually every area of human endeavour including health, political, social and economic development. Studies have shown that worst affected countries are experiencing severe economic downturn and hardship.

In light of the above, CLC makes the following recommendations to the African Commission:

- To remind African governments of their obligations under the African Charter on Human and Peoples' Rights to promote and protect human rights.
- To call on African governments to redouble their efforts at improving the health care system by meeting their commitment at the Abuja Declaration to allocate 15% of their annual budget to the health sector.
- To urge the African Union and the international community to step up measures at ensuring the total eradication of EVD in the region.
- To require states to affected or threatened by EVD to mention in their reports to the Commission steps and measures adopted to address the disease.

I thank you.

Delivered by:

Prof. Ebenezer Durojaye
Head, Socio-Economic Rights Project
Community Law Centre
University of the Western Cape
Private Bag X17, Belleville 7535
Cape Town South Africa
Telephone: +27 21 959 3708/ 2912
Email: edurojaye@uwc.ac.za