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## **61<sup>st</sup> Ordinary Session of the African Commission on Human and Peoples' Rights**

### **Inter-Session Activity Report**

#### **Honourable Commissioner Soyata Maïga**

**Vice Chairperson of the African Commission on Human and Peoples' Rights**

**Chairperson of the Committee on the Protection of the Rights of People Living with HIV (PLHIV) and those at Risk, Vulnerable to and Affected by HIV**

**Banjul, The Gambia  
1 to 15 November 2017**

## **Introduction**

- 1- This report is prepared in accordance with Rules 23(3) and 72 of the Rules of Procedure of the African Commission on Human and Peoples' Rights (the Commission). It provides an account of activities undertaken during the inter-session period, since the 60<sup>th</sup> Ordinary Session of the Commission held in Niamey (Niger) from 8 to 22 May 2017.
- 2- The report comprises four sections. The first section describes activities conducted in my capacity as Chairperson of the Committee on the Protection of the Rights of People Living with HIV (PLHIV) and those at Risk, Vulnerable to and Affected by HIV (the Committee) as well as those undertaken by committee members. The second section focuses on the study on HIV. The third relates to the situation of HIV on the continent during the period covered by the report and the last section puts forward recommendations.

### **Part 1: Activities undertaken with Committee members**

#### **I. Activities undertaken as Chairperson of the Committee**

##### **➤ Participation in the Social Forum of the Human Rights Council 2-4 October 2017, Geneva (Switzerland)**

- 3- We participated in the Social Forum organized by the Human Rights Council (HRC) from 2 to 4 October 2017 in Geneva (Switzerland). The theme of the session was the promotion and protection of human rights in the context of the HIV epidemic and other communicable diseases.
- 4- The Social Forum was organized in accordance with Resolution A/HRC/RES/32/27 adopted on 1 July 2016 by the HRC at its 32<sup>nd</sup> Session. This resolution underlines the importance of coordinated efforts at the national, regional and international level for the promotion of social cohesion based on the principles of justice, equity and solidarity and of addressing the social dimension and challenges of the ongoing globalization process and the negative impact of the current economic and financial crises.

- 5- It was attended by representatives of UN member States and several other stakeholders such as representatives of UN agencies, including special procedures mandate holders, representatives of regional human rights protection mechanisms, regional economic communities, national human rights institutions, civil society organizations, women living with HIV, target populations and vulnerable groups.
- 6- Interactive discussions were organized among participants on various themes including: implementing health related SDGs through a human rights perspective; the role of civil society in the context of epidemics; focus on people and communities leading programmes for health; health care workers on the frontline; translating principles into action: international cooperation for global responses and national implementation.
- 7- I made a presentation to the panel on combatting discrimination and realizing the right to health. The objective was to inform participants of the Commission's mandate and the specific missions of the Committee through its achievements, its findings on progress made in African countries as well as recurring challenges and recommendations made to States Parties and other non-State actors.
- 8- The Forum provided State representatives the opportunity to present their public policies and health financing strategies guaranteeing universal access to medicines. Despite progress being made on account of the mobilization of civil society organizations and the international community, it was unanimously agreed that challenges remain in several areas. There is increased discrimination and stigma against populations at risk in Africa. There is often no legal protection for PLHIV persons and at-risk groups and an absence of or inadequately structured dialogue between State actors and NGOs working on HIV and human rights issues in several countries.
- 9- Relevant recommendations on resources, strategies and coordination to ensure that no one is left behind were made by participants and shall be presented to the 33<sup>rd</sup> Session of the HRC.

➤ **Letter of Urgent Appeal to Tanzania**

10- On 25 October 2017, together with the Special Rapporteur on Human Rights Defenders and the Commissioner responsible for human rights promotion activities in the United Republic of Tanzania, we transmitted a letter of Urgent Appeal to the President of the United Republic of Tanzania, His Excellency Dr John Pombe Magufuli, regarding the alleged arbitrary arrest and detention of thirteen (13) lawyers and Human Rights activists on 17 October 2017, while consulting on how to institute a case in Court to challenge the decision by the Tanzanian Government to limit the provision of certain health care services essential to HIV prevention for key populations at risk of HIV.

➤ **Letter sent to the Executive Director of UNAIDS**

11- In the conclusions and recommendations of the Social Forum, participants commended the work and vision of the Committee in integrating a human rights perspective into the fight against HIV.

12- In light of this support and the Committee's lack of adequate resources to effectively fulfil its mandate, we sent a letter to the UNAIDS Executive Director, Mr. Michel Sidibé, requesting assistance from his institution to launch the study on "HIV, the Law and Human Rights in the African Human Rights System: Key challenges and opportunities for rights-based responses to HIV" at the African Union Summit scheduled in January 2018 and to disseminate the study results in order to heighten the awareness of States Parties on the link between HIV and human rights thereby encouraging them to integrate this dimension in their national policies, programmes and strategies.

13- Mr. Sidibé responded positively to our request and provided all assurances to support the efforts of the Commission. He further commended the initiatives of the Commission and its Committee for the progress made in the fight against HIV on the continent.

**II. Activities undertaken by other Committee members**

- **Validation meeting of the study on “HIV, the Law and human rights in the African human rights system: Key challenges and opportunities for rights-based responses to HIV”.**

**3 November 2017, Banjul (The Gambia)**

14- Committee members attending the 61<sup>st</sup> Ordinary Session of the Commission met on 3 November 2017 with representatives of partner NGOs collaborating on the study to consider the second draft which takes into consideration the observations and contributions of various stakeholders. The meeting also provided a platform for discussions on the measures to be adopted by the Committee for the launch and dissemination of the study as soon as it is adopted by the Commission.

**Part 2: Study on “HIV, the Law and Human Rights in the African Human Rights System: *Key challenges and opportunities for rights-based responses to HIV*”.**

15- In accordance with Resolution ACPHR/Res.290 (EXT.OS/XVI) 2014 on the need to undertake a study on HIV adopted by the Commission during its 16<sup>th</sup> Extraordinary Session held from 20 to 29 July 2014 in Kigali, the Committee initiated the process of drafting a study on the theme: **“HIV, the Law and Human Rights in the African Human Rights System: *Key challenges and opportunities for rights-based responses to HIV*”.**

16- The study aims, inter alia, to emphasize the crucial need to step up efforts in the areas of human rights and social justice with a view to eradicating HIV/AIDS in Africa; conduct a critical analysis of strengths and weaknesses of African mechanisms, at the regional and country levels, in charge of promoting and protecting human rights and achieving social justice for persons living with HIV and high-risk populations; assess on-going projects on the continent relating to HIV and human rights to identify key challenges and best practices; and make practical recommendations focusing on best practices and possibilities of a rights-based approach as part of efforts to enhance HIV prevention, treatment and care.

17- In conducting this study, the Committee, in collaboration with its partners, organized consultations with stakeholders to obtain their views and observations on the contents of the study. The first consultation was organized on 1 December 2015 on the margins of the 18<sup>th</sup> International Conference on AIDS and STIs in Africa (ICASA Conference) held from 29 November to 4 December 2015 in Harare (Zimbabwe). The second was organized on 23 and 24 July 2016 on the margins of the 21<sup>st</sup> International AIDS Conference held in Durban (South Africa). The draft was also posted on the website of the Commission to gather the views of stakeholders who were not able to participate in these consultations. It shall be noted that the draft has been completed and will be submitted to the Commission for consideration and adoption at this Session.

18- I would like to take this opportunity to reiterate, on my behalf and on behalf of the Committee, our sincere gratitude to the various partners, in particular, UNAIDS, UNDP, AMShE, ARASA and SALC, who spared no effort to support the Committee in the conduct of this study.

### **Part 3: The situation of HIV/AIDS on the continent and recommendations.**

19- Despite significant progress made in several countries in the fight against HIV, as reflected in the constant decrease in new infections and a significant increase in access to antiretroviral treatment for infected persons, Africa still remains the continent most affected by the AIDS epidemic.

20- In many countries, this situation is compounded by the persistence of discrimination and stigma against persons living with HIV and those at risk either within the family setting, in the community, at the workplace, in schools or even in testing centres and healthcare facilities. There is also the existence of punitive laws and practices that are repressive and discriminatory, and which impede access for key populations and vulnerable groups such as homosexuals, sex workers and drug users, to HIV prevention, treatment, management and support services, and the absence of a rights-based approach in the response to HIV especially in the design and implementation of their national legal

frameworks, plans, policies, strategies, programmes and responses to combat the epidemic.

21- In light of the above, I would like to make the following recommendations:

**To States and Governments:**

- Acknowledge human rights violations as a cause and consequence of the HIV epidemic and ensure that responses to HIV are in accordance with their obligations under international and regional human rights instruments;
- Adopt a rights-based approach in their responses to HIV, in particular during the design and implementation of their national legal frameworks, plans, policies and programmes to combat the epidemic, and involve representatives of PLHIVs, vulnerable persons and at-risk groups at all stages of discussions;
- Legislate in all areas where a legal vacuum exists with a view to adopting and implementing laws which effectively protect the rights of PLHIVs, vulnerable persons and those at risk;
- Ensure the availability of legal aid services to guarantee protection of the rights of PLHIVs and those at risk;
- Ensure the availability and accessibility of quality HIV prevention, treatment and care services;
- Take every necessary measure to remove all obstacles in the fight against HIV/AIDS, particularly discrimination, stigma, self-stigma and other harmful social and cultural practices including in health facilities.

**To National Human Rights Institutions and Civil Society Organizations:**

- Continue advocating with States Parties for the reform of punitive laws and abandoning of practices that are repressive and discriminatory;

- Further advocate with States Parties on the need to implement strategies for the establishment of legal frameworks which effectively protect the rights of persons living with HIV and those at risk, vulnerable to and affected by HIV;
- Ensure citizen control for the effective and efficient implementation of plans, policies and programmes to combat HIV/AIDS;
- Work in close collaboration with other stakeholders to create a synergy of action so as to exert positive influence on solutions to challenges associated with the fight against HIV and the protection of PLHIVs.

**To UN specialized agencies and other development partners:**

- Pay due attention to the emerging issue of the link between human rights and HIV/AIDS as well as the mandate of the African Commission which is an integral part of the global framework for the promotion and protection of fundamental human rights;
- Provide technical and financial support to States, NHRIs and NGOs for the implementation of their activities, programmes, projects and policies to combat HIV/AIDS and protect the rights of PLHIVs and at-risk groups.