60th Ordinary Session of the African Commission on Human and Peoples’ Rights

Intersession Activity Report of the Committee on the Protection of the Rights of People Living with HIV and those at Risk, Vulnerable to and Affected by HIV

Presented by

Honourable Commissioner Soyata Maïga, Vice-Chairperson of the Commission and Chairperson of the Committee

Niamey, 8 to 22 May 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 by the Committee since the 59th Ordinary Session of the Commission held in Banjul (The Gambia) from 21 October to 4 November 2016.

2. The report comprises three parts: the first describes activities undertaken during the period under review, the second depicts the HIV situation on the continent and the final part contains recommendations.

I. Activities conducted by the Chairperson and members 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 PLHIV Committee)

A. Awareness-raising seminar on HIV/AIDS and human rights in Africa, 6 to 8 December 2016, Cotonou, Benin

3. The Committee organized an awareness-raising seminar on HIV/AIDS and human rights in Africa from 6 to 8 December 2016 in Cotonou, Benin. It was represented by the Chairperson, Commissioner Reine Alapini Gansou, Dr. Agnes Atim Apea and Mr. Fogue Dzutue Alain Patric Ledoux, expert members.

4. The seminar was attended by 30 participants including representatives of the Government of Benin, in particular from the Ministry of Justice, Legislation and Human Rights and the Ministry of Health, and magistrates and lawyers in Benin. Participants from Cameroon and Mali also attended the seminar as well as media professionals and representatives of civil society organisations involved in combatting HIV/AIDS and protecting PLHIVs.

5. The objectives of the seminar were to raise the profile of the Committee, communicate its mandate and achievements, provide participants with information on how to collaborate with this Mechanism in order to report and adequately respond to violations of the rights of people living with HIV (PLHIV) and those at risk, and raise awareness on the urgent need to step up efforts in HIV prevention to sustain the accelerated response for the eradication of AIDS by 2030.

6. The objectives also included sharing information on country strategies to combat discrimination and stigma towards people living with HIV and those at risk, as well as on the different forms of HIV-related human rights violations, and exchanging country experiences relating to the legal protection of people living with HIV and other at-risk groups.

7. Discussions focused on several themes including: the contents of General Comments no. 1 on Article 14 (1) (d) and (e) of the Maputo Protocol relating to the link between the vulnerability of women infected with and affected by HIV, their rights and the obligations of States in this regard; at-risk groups and barriers to their equal access to HIV prevention, treatment and care services; punitive laws and practices and their impact on the effectiveness of the HIV response; discrimination and stigma in health facilities; the issue of mother-to-child transmission; and challenges and progress in terms of the sexual and reproductive rights of women.
8. At the end of the seminar, participants put forward several pertinent recommendations to the various stakeholders including member States, national human rights institutions, UN agencies, the African Commission on Human and Peoples’ Rights, civil society and people living with HIV/AIDS.

B. Promotion mission to the Islamic Republic of Mauritania from 15 to 21 December 2016


10. The objectives of this mission, which was a follow-up to a mission conducted in 2010, were to promote the African Charter and all other regional and universal human rights legal instruments ratified by the country, review and assess the level of implementation of recommendations contained in the 2010 report, and strengthen cooperation ties between the African Commission and the Islamic Republic of Mauritania.

11. The Delegation held discussions with various stakeholders including representatives of the State, civil society, UN agencies and other bodies involved in the promotion and protection of human rights in Mauritania.

12. Regarding the specific issue of combating HIV/AIDS, the Delegation noted that considerable progress had been made in the implementation of related policies, programmes and the national strategy as a result of the high-level commitment of all stakeholders and hence the low prevalence rate of the pandemic in the country.

13. A detailed report of the mission will be prepared and submitted to the African Commission for adoption.

C. Country visit of the Committee to Windhoek (Namibia) from 24 to 29 April 2017

14. Further to the authorization granted by the Government and with the support of the Southern Africa Litigation Centre (SALC), a partner of the Committee, expert members of the Committee and myself conducted a visit to the Republic of Namibia in accordance with the mandate of the Committee which states, inter alia, that the Committee shall seek, request, receive, analyse and respond to reliable information from credible sources including individuals, community-based organisations, non-governmental organisations, specialised agencies, inter-governmental organisations, and State Parties, on the situation and rights of PLHIV and those at risk, undertake fact-finding missions and engage State Parties on their responsibilities to respect, protect and fulfil the rights of people living with HIV and those at risk.

15. The Delegation was composed of Commissioner Lucy Asuagbor, Special Rapporteur on the Rights of Women in Africa and Committee member, Dr. Agnes Atim Apea and Professor
Ebenezer Durojaye, expert members, as well as partners of the Committee including Dr. Aqulnado Mandlate and Ms. Annabel Raw, Legal expert specialising in HIV/AIDS issues.

16. During its visit, the Delegation met with several actors, institutions, private entities, non-governmental organisations, UN agencies and political authorities working in this area to ensure that the national HIV and AIDS response is centred on a human rights-based approach as reflected in plans, policies and programmes developed to fight against this pandemic.

17. The Delegation also seized this opportunity to follow-up on the cases of HIV-positive women who were victims of forced sterilisation, particularly with regard to the Court decision ordering the State to pay damages to victims in respect of the loss suffered.

18. A detailed report of the visit will be prepared and submitted to the African Commission for adoption.

II. Situation of HIV/AIDS on the continent

19. Despite significant progress made in several countries characterized by a constant decrease in new infections and a significant increase in access to antiretroviral treatment for infected persons, the HIV/AIDS situation in Africa still remains an issue of concern.

20. In many regions in Africa, people living with HIV and particularly those at risk, continue to face numerous obstacles with regard to testing and access to care and treatment. Such obstacles include economic barriers, prejudice and stereotypes, gender inequalities, harmful socio-cultural practices and the persistence of stigma and discrimination in health facilities as well.

21. The existence of restrictive and punitive laws and policies and the lack of a conducive legal environment for the effective protection of the rights of people living with HIV, those vulnerable to and at risk in most State parties continue to weigh down efforts to reach the 90-90-90 target and end the pandemic.

22. The gradual decline in external funding for the different programmes to combat HIV, the poor quality of health infrastructures, the shortage in qualified human resources in the health sector as well as the lack of and/or poor coordination among the various stakeholders are all challenges to be addressed in many African countries.

III. Recommendations

23. In light of the above, the Committee makes the following recommendations:

To States Parties:
- Develop and implement national strategic plans to counter stigma and discrimination against PLHIVs and those at risk while ensuring that their needs and concerns are taken into consideration;
- Organize training programmes on human rights for healthcare professionals;
- Initiate human rights-sensitive legal and policy reforms;
- Establish legal assistance services for PLHIVs and those at risk;
- Increase to 15% the national budget allocated to health in compliance with the recommendations of the Abuja Declaration and establish a national fund to combat HIV/AIDS.
To national human rights institutions:
- Intensify awareness campaigns against stigma and discrimination in health facilities;
- Disseminate texts and laws on the protection of people living with HIV/AIDS and those at risk and ensure their effective implementation;
- Play an active role in the reform of punitive laws and practices and ensure integration of the human rights dimension;
- Monitor and evaluate existing policies and programmes on the protection of PLHIVs and at-risk groups.

To the African Commission on Human and Peoples’ Rights:
- Undertake country visits to assess existing laws and policies and investigate acts of discrimination and stigma against PLHIVs and at-risk groups;
- Urge States to fulfil their specific and general obligations under regional and international legal instruments relating to HIV/AIDS;
- Prepare general guidelines for the development of adapted policies and programmes to combat HIV/AIDS.

To United Nations agencies and other development partners:
- Provide technical and financial support to States 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.

To civil society organisations:
- Include in their action plans, awareness-raising activities on stigma and discrimination against PLHIVs and those at risk in communities and in health facilities;
- Document and report cases of violations of the rights of people living with HIV/AIDS;
- Ensure citizen control for the effective and efficient implementation of policies and programmes to combat HIV/AIDS.

To people living with HIV/AIDS:
- Combat self-stigma;
- Advocate with States for the development of laws to protect their rights and ensure their effective implementation.