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64th Ordinary Session of the African Commission on Human and Peoples' Rights

Inter-Session Activity Report

By

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Chairperson of the African Commission on Human and Peoples' Rights; and

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

**Sharm El Sheikh, Egypt
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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 63rd Ordinary Session of the Commission held from 24 October to 13 November 2018 in Banjul, The Gambia.
- 2- The report comprises three 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 other committee members.
- 3- The second section discusses the situation of the HIV epidemic in Africa during the reporting period and the final section includes recommendations.

I. Activities undertaken by Committee members

A. Activities undertaken as Chairperson of the Committee

- **Meeting of the HIV Committee members on 29 November 2018 in Kampala (Uganda)**
- 4- A meeting of the HIV Committee members was held on 29 November 2018 ahead of the National Dialogue on HIV and Human Rights in Kampala (Uganda).
 - 5- At this meeting, the Committee assessed the work accomplished since its last meeting held in December 2016 in Cotonou (Benin). Committee members discussed the HIV/AIDS situation in their respective countries and the continent at large. They also discussed and planned activities scheduled in 2019. It provided the opportunity for the Committee to meet

with certain partners including a representative of the UNAIDS Office in Uganda and AMSHeR to discuss issues of common interest.

➤ **National Dialogue on the African Commission’s study on “HIV, the Law and Human Rights in the African Human Rights System: Key Challenges and Opportunities for Rights-Based Responses” on 30 November 2018 in Kampala (Uganda)**

- 6- The HIV Committee organised a workshop on 30 November 2018 in Kampala (Uganda) to disseminate the conclusions of the study on “HIV, the Law and Human Rights in the African Human Rights System: Key Challenges and Opportunities for Rights-Based Responses”. The main objective was to provide a platform for discussions among the relevant national stakeholders with a view to widely disseminating the conclusions of the Study and identifying the ways, means and mechanisms for the implementation, at the national level, of the recommendations contained in the Study.
- 7- The workshop was attended by representatives from various entities active in this area including representatives of the Uganda National Human Rights Commission, the Uganda AIDS Commission, UN agencies, civil society organizations, associations of people living with HIV and key populations.
- 8- Discussions focused on the recommendations made to the various stakeholders and on the opportunities for rights-based responses in the fight against HIV/AIDS, particularly with regard to policies and programmes aimed at promoting and protecting the rights of people living with HIV and those at risk, vulnerable to and affected by HIV in Uganda.
- 9- The outcome of the discussions highlighted the need to continue the dialogue at the national level between the various State and non-State actors.
- 10- At the end of the workshop, participants recommended that the Uganda National Human Rights Commission and the Uganda AIDS Commission establish a National Task Force composed of representatives of all

stakeholders working in the area of HIV, with clear terms of reference to ensure follow up and implementation of the study's recommendations.

11- The Committee and the Uganda Human Rights Commission expressed the need and relevance of building greater synergy to share their experiences with regard to the legal protection of people living with HIV and key populations.

➤ **National Dialogue on the African Commission's study on "HIV, the Law and Human Rights in the African Human Rights System: Key Challenges and Opportunities for Rights-Based Responses" from 17 to 18 December 2018 in Kigali (Rwanda)**

12- The HIV Committee organized a second national dialogue on the Study on "HIV, the Law and Human Rights in the African Human Rights System: Key Challenges and Opportunities for Rights-Based Responses" from 17 to 18 December 2018 in Kigali (Rwanda).

13- This National Dialogue was attended by 69 participants with representatives of the HIV Committee, the National Commission for Human Rights of Rwanda, the Rwanda Biomedical Center (RBC), UN agencies (UNAIDS and UNFPA), civil society organizations based in Rwanda, international organizations, people living with HIV, key populations and the media.

14- Discussions focused on the Study, its conclusions and recommendations made to the various stakeholders, as well as on their perspectives for the promotion and protection of the rights of people living with HIV, those at risk, vulnerable to and affected by HIV in Rwanda through rights-based responses.

15- Following group discussions, the recommendations were broadened and ways and means identified to implement the recommendations contained in the Study. In this regard, participants recommended, inter alia, that the Government conduct an assessment of the legal environment with a view to adopting an HIV/AIDS specific law in Rwanda. They also recommended that the National Human Rights Commission of Rwanda

should be responsible for ensuring implementation of the recommendations contained in the Study and those made at this National Dialogue.

B. Activities undertaken by Committee members

Consultation on HIV and Human Rights on 12 and 13 February 2019 in Geneva (Switzerland)

- 16- At the invitation of UNAIDS and the Office of the UN High Commissioner for Human Rights, Honourable Commissioner Lucy Asuagbor represented the HIV Committee at a Consultation on Human Rights and HIV held from 12 to 13 February 2019 in Geneva (Switzerland). The main theme of this Consultation was: Promoting human rights in the HIV response: Regional and sub-regional strategies and best practices.
- 17- The purpose of this consultation, mandated by Human Rights Council Resolution 38/8 and organized in coordination with the Joint United Nations Programme on HIV/AIDS, was to identify best practices as well as regional and sub-regional strategies pertaining to respect for and the protection and fulfilment of human rights in the context of the response to HIV, and persistent challenges in removing human rights barriers in the HIV response with a view to ending AIDS by 2030. The Consultation also focused on the work of regional human rights protection mechanisms, keeping in mind the importance of monitoring, accountability and empowerment in the field of human rights and health.
- 18- She thus took part in the Panel on “Regional accountability mechanisms to uphold human rights to and through health”.
- 19- In her presentation, she laid emphasis on the mandate of the Committee and its role to promote and protect people living with HIV and those at risk, vulnerable to and affected by HIV. She shared the recommendations contained in the African Commission’s study on “HIV, the Law and Human Rights in the African Human Rights System: Key Challenges and Opportunities for Rights-Based Responses”, which highlights the strong

linkages between HIV/AIDS and human rights. She noted in this regard that in order to be effective, all HIV responses must integrate a rights-based approach.

C. Press Release marking the 30th anniversary of World AIDS Day on 1 December 2018

- 20- The Committee issued a widely disseminated press release on World AIDS Day commemorated under the theme “**Know your status**”. The Committee noted that despite awareness-raising campaigns, stigma, discrimination, and marginalisation of persons living with HIV and key populations persist on the continent. This adds to the spread of HIV, as these practices negatively affect access to HIV prevention, treatment, care and support services because these groups are forced to hide due to a hostile social and legal environment.
- 21- The Committee called on States Parties to the African Charter to adopt laws and policies for the protection of these categories of vulnerable populations. It further called on States Parties to repeal and remove punitive and restrictive laws, policies and practices which prevent individuals from undergoing voluntary HIV testing due to fear of persecution or stigmatisation, including legislation that adversely affects the rights of key populations.

III. The HIV/AIDS situation on the continent

- 22- Based on information and reports from different stakeholders and partners working to combat HIV, positive developments have indeed been noted. However, areas of concern still remain pertaining to the fight against HIV and the promotion and protection of the rights of people living with HIV and those at risk on the continent.
- 23- In terms of positive developments, the Committee notes that, on the eve of World Tuberculosis Day celebrated on 24 March 2019, four African countries are among the five low- or middle-income countries that achieved or exceeded, ahead of schedule, the target of a 75% reduction in TB deaths among people living with HIV by 2020, as outlined in the 2016

United Nations Political Declaration on Ending AIDS. These are Eritrea (83%), Djibouti (78%), Malawi (78%) and Togo (75%).

- 24- Significant progress has been made by Nigeria in scaling up HIV prevention and treatment services bringing the national HIV prevalence down from 2.8% to 1.4% among adults aged 15-49 years.
- 25- A 30% reduction in new HIV infections in Zambia and South Africa was observed according to the HPTN 071 study conducted between 2013 and 2018 across 21 urban settings and reaching a total population of one million people.
- 26- In 2018, Malawi repealed sections of its HIV legislation which criminalized HIV non-disclosure, exposure and transmission.
- 27- However, the Committee notes that despite this progress, discrimination and stigma against persons living with HIV and key populations, such as men who have sex with men and sex workers, still persist and negatively affect access to HIV prevention, care and treatment services in Africa.
- 28- The Committee also notes the persistence of punitive laws and repressive and discriminatory practices as well as the failure to integrate the human rights dimension into HIV responses, which are all barriers to effectively combatting HIV and AIDS on the continent.
- 29- Central, North and West Africa are significantly lagging behind in terms of HIV screening, treatment and viral load reduction.
- 30- There is also a persistence of taboos and misunderstandings surrounding HIV which discourages people from seeking knowledge and services relating to HIV.

Recommendations

- 31- In light of the above, the Committee makes the following recommendations to the various stakeholders:

To States and Governments:

- Take the necessary measures to combat discrimination, stigma and other harmful social and cultural practices, occurring in health facilities as well, which pose a challenge in the fight against HIV/AIDS;
- Remove all legal barriers preventing populations in general and people living with HIV and key populations in particular from accessing HIV prevention, treatment and other care services;
- 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 and accessibility of good quality HIV prevention, treatment and care services for all populations without distinction;
- Adopt rights-based HIV responses and ensure that these are in compliance with their obligations under international and regional human rights protection instruments;
- Allocate the necessary resources to generalize the practice of self-testing in order to facilitate access to testing for all without fear of stigma and discrimination;
- Engage with representatives of PLHIVs, vulnerable persons and at-risk groups at all stages of the discussion, in particular, during the design and implementation of their national legal frameworks, plans, policies and programmes to combat the epidemic; and
- Take ownership of the findings of the African Commission's study on "HIV, the Law and Human Rights in the African Human Rights System: Key Challenges and Opportunities for Rights-Based Responses" and implement the recommendations contained therein.

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;
- Further raise awareness among all stakeholders on the negative impact of stigma and discrimination in combatting HIV/AIDS;

- 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 build synergy and positively influence solutions to address challenges faced in the fight against HIV and for the protection of PLHIVs; and
- Disseminate the African Commission's study on "HIV, the Law and Human Rights in the African Human Rights System: Key Challenges and Opportunities for Rights-Based Responses".

To UN specialised 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; and
- Support the African Commission and the Committee in ensuring the dissemination of the study on HIV, the Law and Human Rights.