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COMBINED INTER-SESSION ACTIVITY REPORT

(OCTOBER 2012 - APRIL 2013)

OF

HON. COMMISSIONER LUCY ASUAGBOR

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A. INTRODUCTION

In keeping with Rules 23.3 and 72 of the Rules of Procedure of the African Commission on Human and Peoples' Rights (African Commission) and in accordance with its resolution ACHPR/Res 163 (XLVII) 2010, I present this report in my dual capacities as the Chairperson of the Committee on the protection of persons Living with HIV/AIDS and those at Risk, Vulnerable to and Affected by HIV/AIDS (Committee), and as a member of the African Commission.

The report, which is presented in two parts, covers activities carried out under the mandates of the Committee and in my capacity as a member of the Commission, in the period between the 52nd Ordinary Session held from 9 to 22 October in Yamoussoukro, Cote d'Ivoire, and the 53rd Ordinary Session, as follows:

B. THE COMMITTEE ON PLHIV

1. Activities

The main activities that were undertaken during this inter-session period were the organisation of a Regional Sensitization Seminar on Women and HIV/AIDS in Africa, with the theme: *"Women and HIV in Africa: The African Commission's Human Rights-Based Response"*, in Cotonou, Republic of Benin, from 21-23 March 2013 ("the seminar"), and the fourth internal meeting of the Committee, which held on the margins of the Seminar.

(a) Regional Sensitization Seminar on Women and HIV/AIDS in Africa

The seminar which was jointly organized by the Committee and the Special Rapporteur on the Rights of Women in Africa, had the objectives of:

- promoting the African Charter and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;
- raising the awareness of participants about the roles played by the African Commission's subsidiary mechanisms in addressing violations of the rights of PLWHIV and of women in Africa;
- raising the awareness of participants about the impact of HIV/AIDS on the enjoyment and exercise of human rights, and the particular vulnerability of women in the context of HIV/AIDS; and
- sharing experiences on the provision of legal assistance to women, and other vulnerable groups, living with HIV.

The seminar was declared open by the Honourable Minister of Justice, Legislation & Human Rights of the Republic of Benin and attended by various stakeholders, including the Judiciary; lawyers' associations, journalists, human rights associations, organisations working with PLHIV, and women living with HIV.

The methodology of the seminar included the components of theoretical presentations on diverse topics relating to women, HIV/AIDS and human rights in Africa, made by my humble self as the Chairperson of the Committee, the Special Rapporteur on the Rights of Women, the expert members of the Committee, and members of the judiciary, the bar and CSO of Mali and Benin, respectively. These presentations were followed by interactive discussions and experience-sharing sessions between participants.

At the end of the three-day Seminar, participants were able to gain a broader knowledge of the link between human rights and HIV; a deeper understanding of the prevention of HIV infections through a human rights-based approach; and a greater awareness of the mechanisms of the African Commission on women and PLHIV, and their roles in promoting and protecting the rights of PLHIV and women.

(b) The Fourth Internal meeting of the Committee

I chaired the Committee's fourth internal meeting, which held on the margins of the seminar. The main aim of the meeting was for the Committee members to discuss and develop the strategies for implementing their Work Plan for the period 2013.

The meeting also provided an opportunity for Members to highlight activities undertaken on behalf of the Committee.

2. Challenges

(a) Punitive Legal Environments for PLHIV

The major challenge faced by the Committee in respect of the protection of the rights of PLHIV, vulnerable persons and those at risk, continue to be that that the legal environments in many countries do not provide sufficient protection for these categories of persons. Legislative trends towards the criminalisation of HIV exposure and/or transmission and other restrictive and punitive measures, policies and practices as regards the issue of HIV and AIDS, are the rule in the majority of African countries, and these constitute a big stumbling block to HIV prevention and to the protection of the fundamental rights of PLHIV and key populations affected by HIV.

(b) Lack of Visibility and Inadequate Resources

The main challenges faced by the Committee in the execution of its mandate revolve broadly around the issues of lack of visibility and inadequate resources for implementing its programs. I must mention that the Work Plan of the Committee for the year 2012 was regrettably not at all

implemented in the absence of the requisite funds, and has now been repeated for the year 2013.

In order to undertake its extensive mandate and implement its Work Plan for 2013, particularly with a view to gaining the requisite visibility, the Committee requires technical and financial support, other than the financial support provided by the Commission, which at present, is very limited in view of the overall budget of the Commission. Whilst the Committee also enjoys the supports of few external partners which are rightly appreciated, these are very limited.

The current situation makes it difficult for the Committee to undertake several activities and operate as effectively as it should, the commitment of the Commissioners and Experts members notwithstanding. The Committee is therefore still seeking to secure crucial financial and technical support and hereby seizes the opportunity of this forum to call on all present and potential partners to support the work of the Committee.

Furthermore, the Committee is still not very well known by the African human rights community and the key stakeholders involved in the fight against HIV/AIDS.

3. Recommendations

To enhance the effective implementation of the mandate of the Committee, I would like to make the following recommendations:

- (a) The Commission should, in its fund-raising activities and resource-allocation processes, mobilise the required resources to support the work of the Committee;
- (b) State Parties should put in place legal frameworks that will effectively protect the rights of PLHIV, vulnerable persons and those at risk; adopt a human rights-based approach in their national responses to the HIV/AIDS epidemic; and engage the Committee and relevant non-state actors, as partners, when conceiving and developing legal frameworks, plans and policies relating to HIV/AIDS;
- (c) NGOs, CBOs, public and private institutions working in the field of human rights and HIV/AIDS, should intensify the sensitization of State Parties and other stakeholders on the link between human rights and HIV/AIDS and the benefits of a human rights based response to the pandemic, as well as on the mandates, strategies and activities of the Committee on PLHIV; promote the Committee within their networks; maintain relations with the Committee including through inviting the Committee to participate in capacity building sessions in order to share experiences and to benefit from its support; and also serve as its source of information on matters

pertaining to its mandate, both during the Sessions of the Commission and the inter-Session period; and

- (d) Development and donor agencies are implored to provide the requisite technical and financial support for the effective implementation of the Committee's mandate.

C. ACTIVITIES AS COMMISSIONER

From 21 to 23 November 2012, Arusha, United Republic of Tanzania

I participated in the meetings of the Commission's Working Group on Indigenous Populations/Communities. The meetings involved amongst others: discussions on the status of the Working Group's current activities and planning its future activities; highlights and updates by members on activities undertaken on behalf of the Working Group; conceptualization of a training workshop for judges of the African Court on Human and Peoples' Rights (the African Court) on indigenous peoples' rights, and a meeting with the Registrar of the African Court regarding the proposed workshop; meetings with certain representatives of civil society organizations regarding the situation of indigenous peoples in Tanzania; and the official launch of the video film on the rights on indigenous peoples on 23 November, 2012.

On 30 November 2012, in Buea, South West Region, Cameroon,

I participated in a law dinner organised by the *Fako Lawyers' Association*, where the Chairperson of the Commission, Honourable Catherine Dupe Atoki, made a presentation on "*The Role of the Contemporary African Lawyer in the Protection and Promotion of Human Rights*".

On 8 March 2013, in Douala, Cameroon,

I participated in an International Women's Day celebration event, which was organized by MTN Cameroon. The event was a debate, with the theme "*A promise is a promise: Time for action to end violence against women*", and which presented an opportunity to take an in-depth look at the various forms of violence against women and the different solutions and remedies available, within and out of the legal system.

At this event, I made a presentation on "*how the judiciary system addresses the issue of violence against women and tries to eliminate it in the Cameroonian society, and the role and support of government in this regard*".

From 14 March to 16 March, 2013, in Bangem, South-West region, Cameroon,

I participated in the meeting of the judges and magistrates of the South West Region in Cameroon, where I made a presentation on “*the role of the Judiciary in the protection of human rights*”.

The paper underscored the crucial role of the judiciary in the protection of human rights, without which human rights would be mere aspirations, and highlighted the related fundamental requirement of the independence of the judiciary as provided in several international instruments, including the African Charter on Human and Peoples’ Rights (African Charter), the Commission’s *Resolution on the Right to Recourse and Fair Trial*, the Commission’s *Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa*, the United Nations’ *Basic Principles on the Independence of the Judiciary* and the *Bangalore Principles of Judicial Conduct*.

The paper gave an exposé of the roles that the judiciary can play in the protection of human rights, within the context of applicable international human rights instruments including the African Charter, the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights, and also highlighted the significance of the judicial protection of human rights at the national levels within the context of the rule on exhaustion of local remedies in international law.

The paper also discussed the leadership roles of the Supreme Court of India and the Constitutional Court of South Africa in expanding notions of legal protection of human rights through judicial activism and the application of international norms and standards to domestic cases, and encouraged the judges and magistrates present to apply international law and interpret domestic legislation in a manner that is as consistent as possible with the treaty obligations of the State, and international human rights standards. In this regard, the paper brought to the attention of the participants at the meeting, the Commission’s *Resolution on the Role of Lawyers and Judges in the Integration of the Charter and the Enhancement of the Commission’s work in National and sub-Regional systems*, which “[urges] Judges and magistrates to play a greater role in incorporating the [African Charter] and future jurisprudence of the [African Commission] in their judgments thereby promoting and protecting the rights and freedoms guaranteed by the [African Charter]”, and urged them to embrace the universal language and standards of human rights, so as to address human rights in their respective courts in this 21st century.

Finally, on 18 March 2013, in Yaounde, Cameroon,

I participated in the opening ceremony of the Initial Counterpart meeting of the Pan-African Human Rights Defenders Network (PAHRD-Net), organised by Réseau des Défenseurs des Droits de l’Homme d’Afrique Centrale and East and Horn of Africa Human Rights Defenders Project (EHAHRDP),

PAHRD-Net hosted by EHAHRDP is a coordinating network made up of five African sub-regional networks of human rights defenders (HRDs) i.e North Africa HRD Network through the Cairo Institute for Human Rights Studies, East and Horn of Africa HRDs Network, West Africa HRD Network, Southern African HRDs Network (hosted by the International Commission of Jurists-Africa Regional Programme), and Central African HRDs Network (REDHAC).

The ceremony, which was aimed at enhancing the regional protection of HRDs in Africa had the following objectives:

- improved networking, transfer of knowledge and sharing of best practices between sub-region HRD networks in Africa, leading to stronger institutional links at department level as well as an improved and strengthened Pan-African Network;
- the development of action plans to implement functional protection mechanisms in the sub-regional level for human rights defenders under threat, and to provide security management assistance to HRDs in sub-regions; and
- the adoption of agenda for progress and mentorship created in counterpart groups for program/fundraising, research/IT, advocacy, and protection/security management.

The ceremony was attended by diverse stakeholders including Program Officers, Protection Officers, Research Officers and Advocacy Officers from each sub-regional network of human rights defenders, the PAHRD-Net Steering Committee, and a representative of Protection International.