**2017 Human Rights Council Social Forum**

**Panel 3: Focus on people: The role of civil society in the context of epidemics**

**Statement by Kene Esom**

Thank you very much, and good morning to everyone.

I think there are a number of challenges [faced by organizations working with marginalized groups]. I will start from the fact that for many organisations who work on access to health services or who actually deliver health services, one of the big challenges we find is that they are not recognized as human rights defenders.

So, I am a lawyer by profession, and for a better part of my career I just did strictly human rights work; and much lately I have been working with quality health service. And I see how this false dichotomy between a public health approach and a human rights approach is doing a lot of harm to community, community efforts, and, generally, the epidemic response. So, for instance, within the human rights movement, if an organization had an attack or went into a crisis, or had activists arrested, there are human rights defenders’ funds set up. There are organizations that work to provide legal services, and they have developed criteria for determining who a human rights defender is. Unfortunately, these criteria often do not apply to people who are delivering services or activists who are working more in the health response sector. This is a dichotomy that we need to address if we will effectively harness the potential that rests with all the actors, especially the community level advocates to respond to the epidemic.

We also see this manifested in the way the resource trickles down. So generally, we already acknowledge that there is not much resource going to community organisations working within, especially the HIV response, but I would imagine that it is the same for TB and other epidemics. But we find that often times the sources of this funding are also divided sharply around public health interventions and human rights interventions. So, if you are an organization, for instance like AMSHeR is, that works on the frontline of both or the intersection of both, then often times you receive funding that does not allow you to do any human rights work, because of the source of the funding. Sometimes you receive human rights “funding” that does not allow you to do health advocacy work because it is considered not coming from a health program. So these are some of the things that we need to challenge that are impacting organizations, working on the frontline of marginalized population. And because of the peculiar situation of marginalized groups, vulnerable populations, key populations, it is not an either/or situation. We have to address the human rights issues as we address the access to services issues.

And there is a question of reprisals, and by this, I mean the way states and non-state actors come against organizations that work on human rights issues, or on issues that challenge a states’ complicity around human rights violations. And we see this happening, some people talk about the issue of shrinking civil society space. So, increasingly we have popping up in countries around the world more restrictive NGO regulation laws. Whereas in the past you had NGOs registered, and able to operate their businesses and do advocacy freely, these days we have these laws that make NGOs subject to annual reviews, annual regulation and re-registration. And this is a ploy that we find many states are using to curtail the kind of work that NGOs can do. So if you’ve been a bad child, then you don’t get re-registered. And that is how your NGO and the work it does packs up.

In this Council, we have seen the Council take resolutions and efforts to address reprisals against the human rights defenders that cooperate with UN systems. But some of these resources, these instruments, these resolutions are not even known to health system or health sector actors or the NGOs that work within the health response, much less being able to take advantage of it. So we need to look at what this means.

States are reclassifying NGOs on the basis of what their sources of funding are. Again, many countries are not funding community efforts. Many community groups have to depend on external sources of funding, and as soon as you begin to push the boundary and begin to hold states accountable for delivering services to communities, then you are classified as a foreign agent or an international organisation, merely because of where your funding is coming from. And we see states then decide what you can advocate on as a foreign entity and what you can advocate on as a local entity. So all of these ploys are latent ways and sometimes very overt ways that states are using to shut down the efforts of community based organisations, working with populations that are not considered “desirable” in the eyes of the state.

Then of course there are direct human rights violations by state institutions themselves. A clear example for instance, and we’ve seen in many countries, is the constant harassment by police officials. Organizations are attacked, their materials are taken away, their computers are taken away, they are unable to work, their leaders are arrested… And in these situations of arrest, it’s difficult to even find lawyers who are willing to stand up and represent them because they are also afraid of the secondary impact of associating with these organizations, and impact on their practice and their business. We see it in the denial of due process and fair hearing rights of the organization, we see it in denial of freedom of association rights, we see it in denial of freedom of expression rights, we see this manifested in violations of right to property, right to privacy. So these are just the few of the challenges that organisations working with marginalized populations have to deal with.

So, what can the human rights system do to address this? I think we need to break down the silos. For years we have been talking about response, both from the human rights the public health lenses. This dichotomy does not exist in human beings. When I present as a sex worker or a gay man or a person who uses drugs, and I present at the hospital. I might be coming to access health services, but the human rights violations I face, begin at the entrance of the hospital, where a gates man looks at me and thinks I’m too effeminate and already begins verbal insult and sometimes even actively stops me from going into the facility. So, to only look at a public health response, as many ministries of health are only interested in doing within some of these epidemics, short changes the whole response in a big way.

So, we have to speak more to each other; we have to break down the silos. I’ve always been amazed, and I hope I’m correct, but I’ve always been amazed, for instance, why the Office of High Commissioner for Human Rights is not a cosponsor of UNAIDS? I don’t know if it is now, is it? But this is a clear example at this level. But we see it also at the national level, where national human rights institutions are not talking to national AIDs commissions, ministries of justice are not speaking to ministries of health, and so the ministries of health are designing these marvellous interventions, and justice is arresting key populations and throwing them into jail. So, we are giving with one hand and taking with two, and spending resources that we hardly have, when we could be smarter about the intervention. So we need to dismantle these silos and recognise the hurts and the harm it is doing to the response. And then we need to create an enabling environment, we couldn’t say this much more forcefully.

HIV, TB, many of these epidemics are driven primarily by stigma, discrimination and criminalisation. And as long as we uphold these legal systems that haven’t served us, that haven’t served the public good really, because they haven’t deterred crime in any way, they haven’t made a society any safer or more developed, they have only served as some kind of moral pleasure, whatever that is. So until we deal with the issue of criminalisation and ensure that there are more enabling environments for populations, we will not be able to reach the populations that are on the margin.

And very practically, I’d share some examples. In my work and in the work of many organisations working with key populations, we hear these gory stories about how people present to health care services, and doctors call the cops or begin to preach at them and begin to condemn them, forcing more and more of key population to go into hiding. So we have to address the problems that social, legal and human rights environments have created. And of course, we need to resource the response. When we work with the governments, they keep telling us that these populations do not exist, we can’t find them, and they are hidden. Yes, of course, they are hidden, who are you using to find them? - Police officers. Who are you using to find them? - Politicians, who would rather use them as their pawns for the next election.

And this is where the role of communities comes in. Because the task to identify, the task to reach, the task to support the populations we think are in hiding and “invisible”, rest automatically with the communities. The response to epidemics started with communities, before, and as Laurel has said, before there was money, before there was the machinery, before there was the industrial complex that supports any of this response, communities were there carrying this burden. A long after these are gone, communities will also be there. So, these are some of my ideas about what the human rights system can do to support organizations that are in the frontline of addressing access to health care within a context of global epidemic response.

Thank you.