

ACHPR/Res.260 (LIV) 2013: RESOLUTION ON INVOLUNTARY STERILISATION AND THE PROTECTION OF HUMAN RIGHTS IN ACCESS TO HIV SERVICES

The African Commission on Human and Peoples' Rights, meeting at its 54th Ordinary Session held from 22 October to 5 November 2013, in Banjul, The Gambia:

Reaffirming its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its previous Resolutions and General Comments, which recognise *inter alia* the rights of women and girls, the rights of people living with HIV, as well as the need to promote and protect women's sexual and reproductive health rights and to realize access to health services for all individuals;

Underscoring in particular that women's right to health and the principles of autonomy and non-discrimination are recognised under the African Charter and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), and that Article 14 of the Maputo Protocol explicitly provides for sexual and reproductive health rights, and specifically protects women's rights to "control their fertility, decide whether to have children, the number of children and the spacing of children [and] the right to choose any method of contraception";

Noting that voluntary sterilisation is one of the most widely used contraceptive methods in the world and is part of a full range of contraceptive services that should be accessible and affordable to every individual who so chooses, including women living with HIV;

Noting that involuntary sterilisation refers to a procedure that is carried out in the absence of genuine informed consent or against the expressed will of the individual;

Further noting that coerced sterilisation is a form of involuntary sterilisation characterized by the use of financial or other incentives, misinformation, or intimidation tactics to compel an individual to undergo the procedure;

Mindful that access by women living with HIV to the enjoyment of sexual and reproductive health rights is generally and severely limited or denied, as a result of HIV-related discrimination, stigma, prejudices and harmful customary practices;

Deeply concerned by the numerous reports of involuntary sterilisation of women living with HIV in certain State Parties to the African Charter;

vi. Condemns all forms of discrimination and human rights violations relating to access to adequate health services;

vii.

viii. Reaffirms that all medical procedures, including sterilisation, must be provided with the free and informed consent of the individual concerned in line with internationally accepted medical and ethical standards;

ix. Firmly declares that all forms of involuntary sterilisation violate in particular the right to equality and non-discrimination; dignity, liberty and security of person, freedom from torture, cruel, inhuman and degrading treatment, and the right to the best attainable state of physical and mental health; as enshrined in the regional and international human rights instruments, particularly the African Charter and the Maputo Protocol;

x. Calls upon State Parties to the African Charter to:

- i. Allocate adequate resources to HIV and reproductive health services;
- ii. Ensure that the existing international medical and ethical principles of free and informed consent with regards to all medical procedures, including sterilization are reflected in national laws and are enforced in the provision of healthcare services to women living with HIV;
- iii. Put in place mechanisms to ensure that women living with HIV are not subjected to coercion, pressure or undue inducement by healthcare providers and/or institutions in order to secure consent for sterilization or other medical procedures;
- iv. Ensure that women living with HIV are provided with all information on available HIV and reproductive health services in a language that they understand;
- v. Ensure regular training of medical personnel on the protection of human rights in the context of health care, including the principles of informed consent and non-discrimination;

- vi. Ensure meaningful involvement of women living with HIV in the drafting of laws, policies and guidelines concerning sexual and reproductive health and rights;
- vii. Investigate allegations of involuntary sterilisation conducted on women living with HIV and practices involving health practitioners, institutions and all persons involved in cases of involuntary sterilisations of women living with HIV; and
- viii. Put in place complaint mechanisms, legal assistance, and reparation for women living with HIV victims of involuntary sterilisation.

Done in Banjul, The Gambia, 5 November 2013