

A human rights perspective into the Ebola outbreak

VIRUS EBOLA

diangoro hémorragique

Ebola febar bu gawa faat niit la bo parè gawa tassaaro!

MANDARGA



FAGAROU



rachasal locho yi ak sabou bo mou set



togou léén bu bakh (yapp ak légumes)



mandarga febar demal seti doctor



fompal diapou kay bountou bi

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EXECUTIVE SUMMARY

The West Africa region is currently facing its first outbreak of the Ebola Virus Disease (EVD), which is believed to have started in December 2013 in a rural village in Guinea. The outbreak has spread to five West-African countries, namely Guinea, Liberia, Nigeria, Senegal and Sierra Leone. As of 4 September 2014, the total number of EVD cases was 1848, while the number of EVD fatalities stood at 3707¹, with an average of 57% women² compared to an average of 43% men. While governments of affected countries are scrambling to contain the disease, UN experts expect the EVD to take at least another 6 to 12 months to be eradicated.

The rapid spread of the EVD infection has so far plunged the countries concerned into a worrisome humanitarian situation. Most of the affected States have declared a State of Emergency, and governments have taken measures in order to contain the outbreak. The impact of the disease on populations coupled with measures taken by governments to contain it, have led to serious human rights concerns.

These human rights issues range from restrictions on the exercise of the right to information, the right to freedom of movement, and the rights to health and to education, to infringements of the right to life and to physical integrity through the excessive use of force by security forces elements.

- Restrictions of movement combined with lack of information have resulted in isolated communities being deprived of their basic social rights, such as the rights to food, to water, to sanitation, and to health;
- Restrictions and bans on public gatherings and places, including markets, schools and places of worship, without the provision of alternative measures, have mainly impacted on children's right to access education and women's right to exercise incoming generating activities;
- Ebola-related demonstrations have been struck down with excessive use of force, resulting in multiple deaths and injuries of protestors, while abuses of power by security forces while implementing security measures are being reported. The excessive use of force by security forces resulting in injury and death violates the right to life;
- Misinformation has resulted in the stigmatization and discrimination of sick people and health care workers in cities, and ignorance has in some affected and remote areas triggered the expansion of the disease.

¹ Figures include suspected, probable, and confirmed cases, and are based on the WHO Global Alert Response EVD outbreak – West Africa, available online at http://www.who.int/csr/don/2014_09_04_ebola/en/.

² According to desegregated data by sex available in Guinea and Sierra Leone.



Respect for basic human rights and dignity and the protection of affected people during this current crisis are key in order to re-establish trust between the people, the government, and health care workers. In addition, in order to implement sustainable solutions, all actors are to address the root causes of the EVD and adjust their actions to the needs of targeted groups, while taking into account the most exposed and affected persons and areas. If States fail to take the necessary steps to protect populations from the grave consequences of the disease and to prevent such deaths and human rights violations, they will default their legal and moral obligations to their own people.

I. Introduction

West Africa is currently facing its first outbreak of the Ebola Virus Disease (EVD). So far, the outbreak has spread to five West-African countries: the outbreak started in Guinea, presumably in December 2013. First cases were reported in Liberia in late March, and the diseases reached the capital Monrovia by-mid June; in Sierra Leone, the first case was reported on May 25, and by late July the virus reached the capital Freetown. Nigeria's first EVD case was reported on July 25, while Senegal's was confirmed on August 29. Governments of affected countries are scrambling to get control over the situation, while other countries in the region are taking preventive measures to protect themselves from EVD. These measures have so far had little impact on the outbreak: as of 4 September 2014, the total number of reported³ EVD cases was 1848, while the number of EVD fatalities stood at 3707⁴, and continues to rise on a daily basis. The WHO expects it will take at least another 6 to 12 months to bring the outbreak under control, and fears that the number of Ebola cases could rise to 20,000.

The purpose of this report is not limited to gather a list of human rights violations, but rather uses the human rights based approach to analyse and revise the actions taken by State authorities to contain and combat the Ebola outbreak, thus considering the individual as a rights holder and correlate her/his rights with the State's obligation to respect, fulfill and protect life, as embodied in international human rights conventions. This document calls for the integration of human rights-based and gender approaches when dealing with the EVD.

Using the rights based approach provides criteria to determine the content as well as the limits of what people can demand, but also of what can be demanded from them in terms of obligations, thus providing a legal framework within which the government actions are in conformity with international standards. The rights based approach sees the affected persons as rights holders and not just objects of humanitarian action. As such, the person has in particular a right to be consulted, informed, and to

³ The actual number of EBV cases is suspected to be much higher, since not all cases are reported.

⁴ Figures include suspected, probable, and confirmed cases, and are based on the WHO Global Alert Response EVD outbreak – West Africa, available online at http://www.who.int/csr/don/2014_09_04_ebola/en/.



participate in decisions relevant to their fate as a consequence of their civil and political, social, economic and cultural rights.

Finally, the report provides a set of recommendations for all national stake holders to turn the Ebola outbreak into an opportunity for governments to formulate a coherent social and economic policy that is based on human rights principles.

In addition to this report we have prepared an Ebola Human Rights Violations Regional Overview Spreadsheet that is and will be weekly updated. These documents combined analyse the impact of the current EVD crisis on the human rights situation from a HRBA perspective, and aim to facilitate UN agencies and governments in addressing the Ebola outbreak from a HRBA in order to rectify mistakes made and prevent similar violations from reoccurring.

II. Applying human rights-based and gender approaches to the EBV crisis

Human rights are about empowerment and entitlement of people with respect to certain aspects of their lives, including their right to health, right to adequate food and sanitation, as well as protection from insecurity. International human rights law includes fundamental commitments of States to enable women, men, children, and minority groups to enjoy the highest attainable standard of health and live a life of dignity.

A human rights based approach identifies rights-holders and their entitlements and corresponding duty-bearers and their obligations, and promotes strengthening the capacities of both rights-holders to make their claims and duty-bearers to meet their obligations.

Applying human rights and gender to the current EBV crisis means that all actors involved should focus on the realization of the rights of those who are currently most at risk and are likely to be affected by the disease, while ensuring the participation of those groups in decision-making and building their resilience, for an efficient and sustainable impact.

Considering the grave impact the EVD outbreak already has on the overall functioning of the affected countries, a further deterioration of the humanitarian and human rights situation of already struggling States seems very likely. A HRBA to deal with this crisis will ensure that the measures taken to contain the outbreak will reduce the impact on the rights of the affected population to a bare minimum.



III. Human rights violations in the context of the EVD crisis:

The EVD has impacted the full enjoyment of fundamental social and economic rights by affected populations and also led to other human rights concerns as a result of States' and non-states actors' efforts to contain the disease. As EBV-related inter-agency meetings have pointed out, violations of human rights, and the lack of information and participation of the people, have created a hostile mistrust towards governments and health care workers (HCW's). This mistrust has led to a strong opposition and a refusal of many affected communities to cooperate with government personnel and HCW's alike, making the task of dealing with the outbreak in certain areas nearly impossible. A HRBA with a strong focus on the right to information and participation can help defuse this treacherous situation.

Apart from ensuring respect for human rights of right holders, a HRBA to the EBV crisis will help to re-establish trust between Governments, HCW's, and affected communities, and will increase the impact and effectiveness of measures taken on the ground.

1. State of Emergency and bylaws

Almost all affected States have declared a State of Emergency, sometimes in combination with the introduction of bylaws. For example, Sierra Leone has penalized the participation in traditional trade markets, restricting access to food and trade. In Monrovia, quarantines and curfews have been installed and implemented with excessive use of force, restricting the freedom to movement, limiting social and economic rights, and infringing the right to life and physical integrity. Although some human rights can be limited in a State of Emergency, derogations should be limited to those strictly required by the exigencies of the situation. All related measures taken must be proportionate, and the affected population must know the exact material, territorial and temporal scope of the application of the State of Emergency and its related measures. In addition, States should provide a clear justification of each matter taken. Affected people should therefore always know why, how, where, for how long, and what is expected from them. Local communities are entitled to participate meaningfully as partners in the prevention and implementation of measures to tackle the spread of the disease, and should also have access to transparent processes at local, regional and national levels to be able to hold accountable public officials and other stakeholders for the quality, accessibility and acceptability of the services provided in the context of the outbreak.



2. Right to health

Health care services need to be available, accessible, and of quality, particularly in a context of crisis such as the EVD outbreak to ensure the full enjoyment of the right to health for all without discrimination, particularly disadvantaged and most at risk groups. In view of the current crisis, the full enjoyment of the right to health is also subject to the exercise of other interrelated human rights, such as the right to information and the right to freedom of movement.

Reports currently indicate that as a result of lack of information and misinformation, the closure of Ebola affected hospitals led to fear among the HCW's who refused to provide treatment to sick people. For instance, in Monrovia, instances of individuals being refused access to facilities and treatment because of fear of hospital staff that they may be carrying EVD and because of lack of adequate equipment have been reported. In addition, reports indicate that quarantined individuals have no access to food, potable water, or adequate sanitation. In this connection, skilled medical personnel and well equipped facilities are also of paramount importance. Ensuring adequate working conditions and treatment of health workers, is necessary to respect their rights and, in turn, to promote health system effectiveness in addressing the outbreak. The current culture of fear among the affected populations is making people reluctant to seek medical assistance, out of fear of becoming infected with EVD by HCW's or out of fear of being quarantined. As a result, the EVD is having a grave impact on other patients as well. Furthermore, in the current outbreak context, the provision of medical assistance must target groups in most need and at risk, without discrimination. Reports indicate that some women and men are being excluded from facilities on the ground that they are not from the region and may carry the EVD. As such, women who are mostly care givers may face increased susceptibility to developing the disease compared to men.

Apart from the issues described above, inadequate access to health care have also resulted in situations violating the right to human dignity: there are reports of sick people left dying in public while onlookers watch from a distance, and reports of highly contagious corpses rotting in the streets. Families of deceased EBV patients have had to wait for several days before HCW's come to remove and disinfect the body, forcing them to live next to the remains of a loved one. Quarantined people are not receiving food, potable water or healthcare treatment, and when they escape the health care facility, are hunted down, sprayed with disinfectant, and violently forced in vehicles to be returned to the facility. These scenes go against the right to human dignity, which lies at the very basis of all human rights, as is laid down in Preamble of the Universal Declaration of Human Rights.



To ensure that the right to health and the right to dignity are respected during the EBV crisis, all actors involved should therefore:

- Eliminate the current culture of fear by informing affected populations in conformity with the guidelines as laid down under 5. Right to information and participation (see *infra*), to ensure everyone who is sick with EBV-related symptoms or other symptoms is able and willing to seek professional medical treatment as soon as possible;
- Take measures to prevent any form of discrimination, e.g. by creating specific EBV-discrimination bylaws;
- Provide adequate equipment for HCW's and treatment facilities;
- Ensure that the rights of quarantined people are respected, that they receive food, water, sanitation and medical assistance, and that they are treated with dignity;
- Train medical staff on EBV in the broad sense, including how to deal with fearful quarantined people, how to provide psychological support, and how to deal with escaping quarantined patients in a dignified manner;
- Ensure that Ebola testing takes place in an informed, gender sensitive and culturally sensitive manner;
- Provide medical teams collecting suspected Ebola related dead bodies with adequate means to execute their job in a quick and dignified manner.

3. Right to food

The current EBV and EBV-related measures are heavily impacting access to food, both in the short and long term. Restrictions on public gatherings have resulted in the closing down of markets, making access to food difficult. For example, Sierra Leone's newly introduced bylaws penalize the participation in traditional trade markets. In heavily affected regions, farmers do not have the manpower or are too afraid to work their fields, while others have missed this year's planting season due to restrictions on freedom of movement and quarantining⁵, resulting in a possible loss of current and future crops. Consequently, food prices are expected to rise. In addition, people in quarantined zones that are cut off from their usual supply routes have no access to food.

⁵ According to an FAO assessment, this is the case for Sierra Leone's most-affected districts of Kailahun and Kenema, which also form the breadbasket of the country.



All actors involved should therefore:

- Take the needs of rural farmer communities into account, by including them in the decision-making process on EBV-related measures;
- Anticipate upcoming food crises in the near and the far future, and stock up on food supplies and be ready to distribute when necessary;
- Provide people in quarantined zones with the necessary food and farming supplies.

4. Right to education

Restrictions and bans on public gatherings and places, including markets, schools, and places of worship, have an impact on, among others, the right to assembly, education, and freedom of religion. Although these restrictions might be appropriate and effective measures to combat the EBV outbreak, alternatives should be sought where possible.

Multiple affected countries have closed down schools. For example, in Sierra Leone, all schools have been closed by Government Order for an unspecified duration, leaving children without formal education. As the right to education is based on the principles of availability, accessibility, acceptability, and, as is particularly relevant to the current EBV outbreak, adaptability, governments closing down schools should have back-up plans to ensure that children who face a prolonged period without any formal education have at least some form of education through other means, e.g. by school radio broadcasting stations. Religious activities that require public gatherings could be replaced by similar broadcasting programs.

Lastly, although these restrictions on assembly might be appropriate and effective measures, violations of these restrictions, such as demonstrations and protests, should be dealt in accordance with international human rights standards.

5. Right to information, participation, and the freedom of press

Since EBV is a non-curable disease, prevention is the only option to fight the outbreak. Many of the current reported problems are caused by a lack of information, leading to a culture of mistrust and fear.



For example, misinformation has led to angry mobs believing HCW's introduced the deadly disease to the country, which resulted in attacks on health facilities and the murder of 8 HCW's in Guinea. In addition, reports indicate that restrictions are put on the freedom of press: in Liberia, actions taken by government officials have restrained journalists and prevented them from doing their work. These actions are problematic, since a State of Emergency should not be used to undermine rights and freedoms of journalists. It is therefore of crucial importance that information spread is clear and reaches all its target audiences, and the importance of the role of the press to inform the population should be acknowledge and encouraged.

In order to stop the current culture of fear and mistrust, it is crucial that information is spread in accordance with the principles mentioned below:

- True, accurate, and clear: EBV-information messages should include symptoms, how the disease is transmitted and how it is not transmitted, what actions to avoid, how to protect oneself, and what to do when sick. Bylaws should clearly indicate what behaviour is penalized.
- Adaptable to the target audience:
 - distributed in all local languages;
 - taking into account local customs, e.g. eating from the same plate, drinking from the same cups, burial rituals, role of women in the household, etc.
 - take into account vulnerable and most at risk groups that come in physical contact with a lot of people, e.g. public transport workers, women in markets, HCW's, sex workers, children living on the street, etc.
- Accessible in as many ways possible:
 - in written form: e.g. posters and leaflets distributed at key locations, SMS text messages, press/newspaper
 - in oral form: e.g. community-based radio, word of mouth, speeches, traditional communicators
 - include images in order to also be comprehensible by illiterate persons.
- Disseminated with the participation of the local population, and the press: affected communities should participate in the information spreading process, e.g. by engaging representatives of local communities and religious leaders, or by training public transport workers, as is being done in Sierra Leone. Rights and freedoms of journalists should be guaranteed, and their participation should be encouraged.



6. Right to life, excessive use of force, the right to due process and fair trial, and accountability

The right to life is a non-derogable right during States of Emergencies. Reports however indicate that security forces in affected countries on multiple occasions have struck down demonstrations with excessive use of force. For example, during a demonstration following the West-Point quarantine in Monrovia, at least 1 death and multiple injuries were reported⁶, while some of Liberia's armed forces have reportedly been given orders to shoot people trying to illegally cross the border from neighbouring Sierra Leone, which was closed to stem the spread of Ebola. In addition, excessive uses of force by security forces while implementing security measures are taking place in Liberia. These excessive and disproportionate uses of force resulting in injuries and deaths of persons violate the right to life. Grave violations resulting in injuries and death is likely to anger the affected population and instill fear, which may lead to mistrust and refusal to cooperate, resulting in opposite effects and further spread of the EBV.

In addition, new bylaws are being created to fight the Ebola outbreak, and criminalize a range of acts and omissions, many of which carry a penalty of imprisonment. More likely than not, people breaking these new laws will be arrested and detained. Initial reports indicate that in affected countries the justice system is deteriorating and procedural safeguards such as judicial guarantees are under stress. One example indicates that three men were sentenced to 27 months in prison by a local court for obstructing an Ebola operation and riotous conduct during the collection of a dead Ebola victim while the reports' editorial noted that no dates were reported and no details of circumstances were reported. This incident indicates a possible violation of the fundamental requirements of the right to due process fair trial, which must also be respected during a State of Emergency.

When implementing measures, States should therefore:

- Peacefully try to defuse any form of protest before it takes place, by involving the affected population in the decision making process where possible, and by informing them of the measures to be taken well in advance so they can prepare accordingly;
- Give clear orders to security forces to refrain from the excessive use of force and abuse of power, and ensure that they follow the prescribed guidelines set out regarding the use of reasonable force where there is need, and provide security personnel with HRBA guidelines on crowd control;

⁶ Violent clashes resulting in 55 injured people were also reported from N'Zerekore, Guinea's second largest city on 30 August 2014.



- Assure independent investigations on alleged human rights violations reported against security personnel and ensure follow up sanctions and accountability;
- Ensure that bylaws on national and local levels are implemented in accordance with the principles of due process and fair trial;
- Provide victims of violations with effective remedies.

7. Freedom of movement

Many of the measures taken, like the closing of borders, curfews, and quarantines such as the one in West-Point, Monrovia, have a grave impact on the freedom of movement, and restrict access to health care, food, water, and sanitation for those living in neighbourhoods and villages of affected areas. Although restrictions of movement and quarantines might be proportionate and necessary, timely communication of information and participation is required to ensure that affected communities can prepare for isolation, since trade and access to food, water, sanitation, and health care are all strongly affected by these measures. A clear geographical and temporal scope should therefore be defined in consultation with communities at risk, to avert further spreading of the disease. Regarding these quarantines, including individual forced quarantines of suspected cases, the right of all persons deprived of liberty to be treated with humanity is a non-derogable right. The implementation of these restrictions, such as the guarding of borders, treatment facilities, and security checkpoints, should not be enforced with excessive use of force.

Lastly, as a side-effect of the current climate of fear, the use of public and private transport has dramatically decreased for fear of being infected.

8. Obligation to protect

As duty bearers, affected States have the obligation to protect citizens from human rights abuses. In the current EVD crisis, multiple groups have been inadequately protected by the affected States. So far, the following groups have been identified:

- Following imposed quarantines of certain zones, security forces completely withdrew from the zones and only managed the entry checkpoints, as was the case during the West Point quarantine in Monrovia. The complete lack of presence of security forces leaves people in cut off zones vulnerable, and results in a failure of the State in its obligation to protect. Future quarantines



should ensure that affected people inside the zones can call upon the protection of the State's security forces when needed.

- As a result of misinformation and fear, rumors are circulating that HCW's are spreading the EBV. On multiple occasions this has led to violent attacks on HCW's and treatment facilities, as on 17 September 2014 when 8 HCW's were killed by villagers in Guinea. In order to protect HCW's and enable them to do their crucial work, States should provide adequate protection, and should prevent similar rumors from circulating by spreading true information in conformity with the guidelines described under 5. Right to information and participation (see *supra*).
- HCW's and Security Forces deployed in quarantined areas should be adequately protected against both instances of violence and the EDV, and should be provided with the necessary logistical support (physical protection, protective gear, education/training) to enable them carry out their work.

9. Discrimination and stigmatization affecting multiple rights

Due to misinformation and the overall climate of fear, numerous reports of groups being discriminated for their connection to EBV have been received. Children of whose parents are sick or have deceased are left to fend for themselves because people believe they might be infected as well, impacting children's rights. HCW's, EVD survivors, and family members of EVD patients are discriminated against and forced from their rental homes or fired from their jobs, impacting the right to housing and the right to work. Other examples include strangers who are refused health care and chased out of Sierra Leone's villages out of fear that they might bring EVD, which violates the right to health.

All actors involved should primarily eradicate the culture of fear that is the main cause of these discriminatory practices. Here again, ensuring a dissemination of true, accurate, clear, adaptable, and available information⁷ on how EDV does and does not spread is key. In addition, bylaws should be created to protect stigmatized and discriminated groups, including women and children while complaint mechanisms should be put in place to enable the right-holders to report stigmatization and discriminatory practices.

⁷ See 5. Right to information and participation, *supra*.



IV. Conclusion and recommendations

The current EBV crisis poses a serious threat to the human rights situation in affected countries, and beyond. To prevent further deterioration of the situation and the devastating consequences of the outbreak, local officials, relevant ministers, heads of government and of States, as well as development partners must do their utmost to uphold the fundamental rights of the most vulnerable children, women, men, and elders of their people. They should also make sure local communities are consulted and adequately empowered to avoid and face the disease. As such, any form of inequality and discrimination should be addressed while planning and implementing EVD-related measures.

OHCHR WARO therefore recommends that:

At the national level:

Heads of government and national EBV-related coordination mechanisms take inclusive and coordinated actions with all state entities and non- state entities, and ensure that key governmental actors, such as the Ministry of Health, the Ministry of Justice, and national security forces are adequately equipped and trained to deal with the on-going EBV crisis, and are able to implement a HRBA in their work.

National and local EBV-related coordination mechanisms establish a set of priorities in dealing with the EVD, for instance identify those who are the most vulnerable in affected localities.

Local officials, ministries of public health, and other entities involved undertake participative analysis and design of strategy for the disease eradication, particularly with communities at the local level, at borders, and with the most affected groups, such as HCW's, care givers, women, and other people who are frequently exposed to physical contact with other individuals.

Ministries of public health and medical actors ensure available, accessible, quality health care that is equipped and trained to deal with EVD for all affected populations and groups, without discrimination.

Ministries of public health and communication undertake media and other awareness-raising campaigns targeted at children, women and other at risk groups, as well as at key stakeholders, such as community leaders and traditional communicators, to disseminate informative Ebola messages while also promoting gender equality and free and equal access to health care facilities, and increase trust among populations.

Ministries of gender and family undertake the necessary measures to increase awareness on EVD symptoms among family and community members, and empower women to make decisions about their own well-being and that of their family.

Ministries of justice, gender and social affairs take additional measures to fight EVD-related stigmatization and discrimination, and ensure full protection of all groups at risk, with a particular attention to women and children living in remote areas.

Ministries of economy and budget secure funding from donors and provide enough funds to meet actual needs, address pre-existing disparities or exclusion of certain subpopulations, and allocate maximum resources to equip health care facilities and HCW's.

Security forces and law enforcement officials refrain from the excessive use of force and respect the right to due process and fair trial while implementing EBV-related measures, and ensure follow up, accountability, and remedies when violations do occur.

Civil society actors and other development and humanitarian actors advocate and develop targeted awareness-raising campaigns.

At regional and international level:

All international actors involved in dealing with the current EVD crisis, including UN Agencies and WHO, ensure that a HRBA is implemented in all their actions taken.

ECOWAS organs provide adequate funding to deal with the outbreak.