Speech by Prof. Sheila Tlou, Regional Director, RST-ESA (as delivered)
at

Regional Dialogue of the Global Commission on HIV and Law
Burgers Hotel • Pretoria • South Africa
03 August 2011

Excellencies,
Commissioners,
Distinguished Guests,
Ladies and Gentlemen,
All protocol observed

It is a real honour for me to address such dedicated and distinguished participants at this Regional Dialogue of the Global Commission on HIV and the Law. This is a critical gathering to our region of Eastern and Southern Africa, which is the most affected by the HIV epidemic. Since the beginning of the epidemic, more than 15 million Africans have died from AIDS-related illnesses, and of the 33 million people living with HIV worldwide, 22.5 million are in sub-Saharan Africa. About 14.8 million our children in the region have lost one or both parents to AIDS. We should be concerned!

Distinguished guests, ladies and gentlemen, the vision of the Joint United Nations Program on AIDS (UNAIDS) is for a world with **Zero New HIV Infections, Zero Discrimination and Zero AIDS Related Deaths.** And we have every hope that we will achieve this vision.

Just over a month ago, we welcomed new bold targets set by world leaders at the United Nations High Level Meeting on AIDS. Their commitments are well articulated in the 2011 *Political Declaration on HIV/AIDS* in which they recognised that the full realisation of human rights and fundamental freedoms for all is an essential element in the global response. They also recognised that HIV prevention strategies inadequately focus on populations at higher risk—specifically sex workers, men who have sex with men, and people who inject drugs, and called on all countries to focus their response based on epidemiological and national contexts.

Most important, they committed to creating enabling legal, social and policy frameworks in order to eliminate stigma, discrimination and violence related to HIV by reviewing laws and policies that adversely impact on the successful, effective, and equitable delivery of HIV prevention, treatment, care and support services.

As we gather to begin our dialogue, let us consider the opportunities that these latest developments bring to our discussion and in deed towards our subsequent actions. The notion of dialogue, which is embedded in many traditional and modern African societies, is one that is geared towards action; so let us speak, hear each other with a sense of urgency, and act upon the issues and concerns that will be identified during this dialogue.

Distinguished guests, ladies and gentlemen, thirty years into the HIV epidemic, we have recognised the power of commitment and action. As Minister of Health in Botswana, working under the leadership of President Mogae, a distinguished member of this Global Commission on HIV and the Law, I saw first hand what strong leadership, political will and commitment, zero tolerance for corruption, and general good governance can deliver, against what appeared as insurmountable odds. Very few people would have bet 10 years ago that Botswana would roll out antiretroviral therapy to over 90% of eligible people living with HIV or bring down the rate of Mother- to-Child Transmission of HIV from 40% to less than 4 % in just 5 years. Yes we did it, and showed the world that these things are possible even in resource-constrained settings such as ours.

Throughout sub-Saharan Africa, commitment and action have led to increased number of people receiving antiretroviral therapy (ART) from a mere 2% in 2002 to 37% in 2009. We have also witnessed the amazing contribution of civil society organisations and people living with HIV in shaping the AIDS response. They have challenged inaction; they have campaigned for human rights and access to services for all; they stood up for the most vulnerable; they delivered much needed support services to people living with HIV and their families, and many more! Civil society organisations in our region have truly inspired and enhanced the AIDS response, and we have seen even greater results where government commitments have been joined with civil society mobilisation.

Unfortunately, we have also experienced, and are still confronting, the tragic human, social, economic and development costs of inaction, inequality and exclusion in the context of HIV in sub-Saharan Africa. The 2010 UNAIDS *Report on the Global HIV epidemic* reminds us that women represent almost 60% of people living with HIV in our region, mainly due issues of gender inequality and social constructs that affect their capacity to protect themselves from the epidemic. Gender-based violence, as well as the limited autonomy and control of women over their sexuality, increase their vulnerability to HIV infection. Stigma, discrimination and violence against women living with HIV are reported in all parts of our continent. Women are continuously portrayed through certain practices and laws “as vectors of disease”, thus leading to attempts to “control” their sexual and reproductive health through restrictive legal and policy measures.

Similarly, children and adolescents are affected in various ways by HIV in sub-Saharan Africa. Of particular concern, is the fact that legal and policy provisions restrict independent access to age-appropriate and evidence-informed HIV prevention, treatment, care and support services for adolescents in many countries.

When it comes to access to treatment, this region remains highly threatened. Inadequate legislative frameworks, limited capacity for national production of drugs, insufficient technical capacity on intellectual property issues, including within national regulatory authorities, insufficient global cooperation and, more recently, the "TRIPS plus" provisions, represent multiple barriers to sustainable access to affordable HIV treatment for millions of Africans.

Commissioners
Distinguished Guests,
Ladies and Gentlemen,

Recent legal and policy developments in some countries of the region have centred on moral and religious values, and claims of culture and African traditions. From Banjul to Mombasa, prejudice, fear and intolerance still characterise the situation of populations most affected by HIV. However, the evidence is clear and does not allow us to shy away from action. Recent studies conducted in many sub-Saharan African countries confirmed high levels of HIV infection among men who have sex with men, some as high as 70%.

Paid sex remains an important factor in many of the HIV epidemics in the region. It is estimated that about 33% of new HIV infections in Ghana, 14% in Kenya and 10% in Uganda are linked to sex work ……meaning HIV infection among sex workers, their clients, and the clients' sex partners and so on. People who inject drugs are generally marginalised and treated as criminals in most countries in the region, further exacerbating their increased vulnerability to HIV infection.

The criminalisation of sex work and same sex relationships; the harassment and violence against sex workers, men who have sex with men and other members of key populations, including by law enforcement agents, reinforce the vulnerability and marginalisation of members of these groups, and reduce their access to HIV-related prevention, treatment, care and support services.

We can do something! UNAIDS is not a moral reference but a scientific reference: we present the facts and expect countries to make evidence informed interventions. To us success in stemming the tide of the epidemic requires addressing the needs of those millions of Africans who because of fear, prejudice, entrenched legal, cultural and social values and norms do not have access to HIV services or cannot live full and dignified lives.

We are already seeing some signs of hope:

- In July 2010, Namibia lifted all its restrictions to entry, stay and residence for people living with HIV

- In 2010, Togo revised its HIV legislation to remove the compulsory HIV testing of sex workers
- In December 2010, the High Court of Uganda held that the publication of names of people who reportedly identified as lesbian, gay, or bisexual was a violation of the applicants' rights to privacy, dignity, and freedom from inhuman treatment
- In Kenya, civil society organisations are mobilised to challenge an anti-counterfeiting legislation which they consider to threaten access to affordable and effective generic treatment.

So there is some action, but not as urgently as it is required. In my view, scientific evidence is advancing faster than human beings can implement or intervene. We need to act fast!

Distinguished Guests,
Ladies and Gentlemen,

Allow me to conclude by stating my belief that it is for our common good that the law should protect people and support zero discrimination in the context of HIV. The work of the Global Commission on HIV and the Law is essential to expand these positive signs and to interrogate the role of the law in the context of HIV. Through its innovative dialogue with governments and civil society, the Global Commission can help us in the pursuit of dignity, security, and justice in the AIDS response. It is truly inspiring and reassuring that this Global Commission is represented by some of the finest leaders who have shown, throughout their lives and work, the audacity of justice and have strived for the empowerment of the most destitute.

I trust that you will help steer this regional dialogue in a direction that leads to addressing all legal and policy barriers to an effective AIDS response in our beloved Africa. I hope that government and civil society representatives will seize the significance of today to engage in genuine dialogue for evidence-informed and human rights-based approaches, so that we can all achieve that goal of Zero New HIV infections, Zero Discrimination, and Zero AIDS Related Deaths!

I thank you for your attention!!