

December 2014

General situation of LGBTI people

General social attitudes towards lesbian, gay, bisexual, transgender and intersex (LGBTI) people are homophobic and transphobic. There is increasing hostility on the political level, as a result of LGBTI people's claims for rights becoming more visible, and there is open discrimination against LGBTI people who face hate crimes and rejection by their families. It is common for many people to enter straight marriages due to family pressure and lack of other options and resources. It is understood that the situation of transgender and intersex people is very difficult, with no legal recognition or right to change legal gender.

The media, as a main source of information and exposure to LGBTI people and issues, contributes to the climate of intolerance and violence against LGBTI individuals through misleading, biased and inflammatory reporting. A number of politicians have made hostile public statements about homosexuality, stressing religious and cultural arguments. The Liberian Council of Churches has also blamed LGBTI people for the Ebola virus outbreak in Liberia with more than 100 religious leaders signing a prejudiced and potentially dangerous statement linking Ebola with homosexuality.

When the US government announced plans to work on LGBTI issues abroad, directing US agencies to consider LGBTI rights when making aid decisions, and the UK government declared it was considering cutting aid to countries that violate LGBTI rights, this was perceived by many Liberians as a threat to cut off foreign assistance due to the country's anti-LGBTI laws and stirred up debate in the media over whether to decriminalise same-sex sexual behaviour and introduce same-sex marriage. These further enflamed public attitudes against LGBTI people, who were blamed for threatening much-needed development aid. Opponents of LGBTI rights argued that the requirements in these policies were a new kind of colonialism. Demands for LGBTI rights and same-sex

marriage have caused aggressive responses from conservative and religious groups.

The introduction of new anti-same-sex bills in Liberia has led to more open hostility and intolerance towards LGBTI people, intensifying the adverse effects of existing laws that criminalise same-sex conduct. Activists allege that the police target or harass those they believe to be LGBTI and there are only a few civil society groups promoting the rights of LGBTI individuals. These are maintaining a very low profile due to fear of persecution. According to the UPR shadow report (produced by LIPRIDE), there have been records of increase violations and human rights abuse of people perceived or actual have different sexual orientations and gender identity, since the end of 2011, after the National Elections.

Legal and human rights instruments

Constitutional provisions and legal framework

It is illegal to engage in sexual contact with people of the same sex. This is regulated in the Penal Law, Section 14.74, and is criminalised as 'voluntary sodomy' and applies to men and women. The offence is regarded as a 'minor misdemeanour' but can result in one year's imprisonment. Although the law already criminalises same-sex conduct, the Liberian legislature has been considering even more repressive legislation.

In July 2012, a Bill was passed in the Senate that would ban same-sex marriage, making it a first degree felony offence, punishable by imprisonment for up to five years. The Bill was passed in the Senate as an amendment to the Domestic Relations Law, but it has not been enacted. The President has stated that she would veto any proposed 'homosexuality' legislation and it appears the law has stalled. The President has also stated that she would not engage in any LGBTI politics, referring to cultural and traditional values. Indeed, the country's former Solicitor General remarked, "If she tried to decriminalise the [current anti-gay] law it would be political suicide". A

number of politicians have made previous unsuccessful attempts to toughen legislation on same-sex sexual acts with their supporters actively resisting the agenda of UN Secretary General, Ban Ki Moon, who urged African leaders to consider LGBTI rights.

There are no laws against discrimination based on sexual orientation or gender identity, nor protection against hate crimes based on sexual or gender identity. There is also no legislation on gender recognition or other rights for transgender or intersex people who may wish to change their legal documents.

The Constitutional Review Committee, which started to work in 2014, is so far silent on the rights of LGBTI persons – but there is a fear that negative provisions may be inserted. The Liberian development plan “Agenda for Transformation” 2012-17 is said to take a human rights based approach in its 5 pillars, but fails to mention sexual orientation as one of the grounds of discrimination.

Liberia set up an Independent National Commission on Human Rights in 2010 after substantial delays. It is still to develop its role and methods. There is a National Human Rights Action Plan (November 2013). LGBTI issues are not yet part of these processes.

Regional and international human rights instruments

Liberia is a member of the UN and has ratified many of the main international human rights instruments. As such it is bound to fulfil, protect and respect the rights enshrined in these instruments. All Liberians may turn to the UN Human Rights Committee through procedure 1503, to the Special Rapporteurs for violations of specific human rights, to ECOSOC for women's rights violations, and use the UNESCO procedure for human rights violations in UNESCO's fields of mandate. Liberia is also a member of the African Union and its citizens and NGOs may file complaints to the African Commission on Human and Peoples' Rights. All of these instruments could be used to hold Liberia accountable to better ensure LGBTI rights.

In May 2014, the African Commission on Human and Peoples' Rights adopted a resolution condemning violence based on sexual orientation and gender

identity. The resolution calls on “State parties to ensure that human rights defenders are able to work in an environment free from stigma, reprisals or criminal prosecution as a result of their human rights protection activities.” It further urges States to recognise acts of violence and abuse by individuals and groups by enforcing appropriate laws prohibiting and punishing all forms of violence including those targeting people on the basis of their sexual identities. They must also ensure the proper investigation and diligent prosecution of perpetrators and have the necessary judicial procedures to respond to the needs of victims. This resolution is a milestone, but it has yet to be followed up at the national level.

Sexual and Reproductive Health and Rights, HIV/AIDS and gender based violence

Given the general lack of healthcare infrastructure, there are many issues facing LGBTI people when it comes to their sexual and reproductive health and rights, including social isolation, lack of education, traditional practices, economic disparities, violence, and issues of confidentiality and stigmatisation. The impact of the on-going Ebola crisis has contributed to a further breakdown of the healthcare system with limited or no treatment services.

HIV prevalence is in general relatively low in Liberia. It is estimated that 1.5% of the population are living with HIV. As for the situation for men who have sex with men (MSM), in the most recent Integrated Bio-Behavioural Surveillance Survey (IBBSS) result (2013) on key affected groups, MSM accounted for the highest number of HIV infections at 19.8% followed by female sex workers at 9.8%. This data points to disproportionately high rates of HIV among MSM, compared to the general population, particularly in low income countries and where lack of information due to criminalisation is a problem. MSM were targeted as a Most At Risk Population (MARP) in the National HIV/AIDS Strategic Framework that was adopted 2010, which also mentions MSM among the incarcerated as a group with special needs.

Without proper prevention strategies, MSM risk further spreading the epidemic. Data and statistics are useful tools to increase awareness and develop programmes that successfully target MSM. Raising awareness about MSM and HIV can also be used as a window of opportunity to put LGBTI rights issues on the agenda, and it can be strategically useful to allocate resources to research on MSM prevention and prevalence.

The right to health is always a highly prioritised issue for LGBTI communities as discrimination in healthcare can have lethal consequences. Sexual and reproductive health and rights or HIV prevention initiatives can be entry points to advocate for LGBTI rights as acceptance will help fight the spread of the epidemic. The organisation, Stop AIDS in Liberia (SAIL), works with HIV issues and they see a great need for HIV information and education to the LGBTI community.

There is a high incidence of gender-based violence with rape and sexual violence being particularly prevalent. LGBTI people in Liberia are frequently targeted as victims of gender-based violence.

Civil society organisations and institutions active in LGBTI work

There are a few organisations working for LGBTI rights in Liberia. Main challenges for the movement are legal and security issues, discrimination in the community and health institutions, and increasing hate crimes. The lack of a legal framework for protection of basic human rights creates problems, including issues of blackmail. This brief therefore does not mention the names and contact details of organisations actively working for LGBTI rights. The Swedish Embassy can provide further information to those with genuine interest to support the movement.

The homophobic and transphobic climate in the political sphere puts the safety of LGBTI people at high risk. Since 2012, security training to support the LGBTI response to homophobic attacks has been established, supported by international organisations.

Regional LGBTI organisations covering the region are ILGA: <http://africa.ilga.org>

What Sweden can do? – 9 questions to discuss

Within the broader context of support to democracy, human rights, SRHR, economic empowerment and gender equality in Liberia, Sweden has a great opportunity to include issues related to the rights of LGBTI people and their access to justice. When addressing LGBTI perspectives in a non-supportive government context like Liberia, it is very important to consult local LGBTI organisations to make sure not to conflict with their work.

Questions to discuss:

- Could Sweden do more to stay updated on the legal and security situation and the needs and priorities of the LGBTI movement?
- Could Sweden do more to offer protection to activists and attend court cases? Could Sweden contribute to the protection of organisations at risk?
- Could Sweden seek more effective strategic alliances and continue to raise LGBTI rights in the dialogue with the government?
- Could Sweden do more to encourage and support cooperation and synergies between LGBTI organisations and mainstream Human Rights organisations, both nationally and regionally?
- Could Sweden do more to include LGBTI organisations in social and professional events/networks and capacity building efforts for human rights organisations?
- Could Sweden do more to encourage inclusion of LGBTI rights in accountability mechanisms (e.g. reform of constitution, laws, and national human rights commission mandate)?
- Could Sweden do more to engage in dialogue with private sector and market development initiatives around anti-discrimination, codes of conduct, and employment legislation, with the aim of

reducing discrimination against people based on sexual orientation or gender identity?

- Could Sweden do more to include gay, lesbian, bisexual, trans and intersex people and the MSM group in the supported SRHR initiatives (including HIV/AIDS)?
- Could Sweden do more to encourage supported gender-based violence initiatives to include the LGBTI population?

For further advice on dialogue regarding LGBTI issues, download [Sida's Human Rights of Lesbian, Gay, Bisexual and Transgender Persons - Conducting a Dialogue](#) and the Ministry of Foreign Affairs [Dialogue brief](#). Also refer to the [EU tools](#) and guidelines in the reference list. More specific advice and support measures, as well as contact information, can also be provided through ILGA or RFSL, should the Embassy wish for a dialogue.

General References

RFSL, *LGBT in Development, An introduction in how to include LGBT in programming in development*
http://www.rfsl.se/public/LGBT_in_development.pdf

[Sida's Human Rights of Lesbian, Gay, Bisexual and Transgender Persons - Conducting a Dialogue](#) and the Ministry of Foreign Affairs [Dialogue brief](#).

EU news, tools and guidelines: http://eeas.europa.eu/human_rights/lgbt/index_en.htm

The EU Guidelines (2013): [Guidelines for supporting LGBTI persons' human rights](#)

Specific references

Barat et al, 2007, *Elevated Risk for HIV Infection among Men Who Have Sex with Men in Low- and Middle-Income Countries 2000–2006: A Systematic Review*, *PLoS Med* 4(12): e339.
<http://www.plosmedicine.org/article/info:doi/10.1371/journal.pmed.0040339>

ILGA, 2014, *State-sponsored Homophobia: A world survey of laws prohibiting same-sex activity between consenting adults* (See updated version at www.ilga.org)

Human Right's Watch, 2013, *"It's Nature, Not a Crime" - Discriminatory Laws and LGBT people in Liberia*, http://www.hrw.org/sites/default/files/reports/liberia1113_ForUpload.pdf

Liberia Initiative for the Promotion of Rights, Independence, Diversity, and Equality (LIPRIDE), 2014, *Universal Periodic Reporting (UPR) Liberia*.

MSM Global Fund: <http://www.msmgf.org>

National AIDS Commission 2010: *National HIV/AIDS Strategic framework II 2010-2014*

National Commissions for UNESCO of France and Germany *Claiming Human Rights*, 2010,
www.claiminghumanrights.org/liberia.html?&L=0

SAIL, Stop Aids in Liberia

The human rights of LGBTI persons have been a Swedish government priority since 2009. As a service to staff, briefs have been prepared to provide basic information about the situation of this (often forgotten) group and inspire discussions on what Sweden could do to better include LGBTI rights in diplomacy and programming.