

Universal Periodic Reporting (UPR)

Liberia

September 2014

Submitted to: **United Nations Human Rights Council**

Submitted by: **Liberia Initiative for the Promotion of Rights, Independence, Diversity, and Equality (LIPRIDE)**

Representing: **LIPRIDE Coalition**

- **Action Aid Liberia**
- **Stop AIDs In Liberia (SAIL)**
- **Liberia Women Empowerment Network (LIWEN)**
- **Association of Liberian People Living with HIV and AIDS (ALL+)**
- **National Association of Harmful Traditional Practices Affecting the Health of Women and Children (NATPAH)**
- **Lesbian and Gay Association Liberia (LEGAL)**
- **Liberian National Network of People Living with HIV and AIDS (LIBNEP+)**
- **United Sisters**
- **Leadership Institute for Women (LIW)**
- **Anti-AIDS Media Network**
- **Youth and Adolescents Living with HIV and AIDS (YAL+)**

Summary

Introduction:

This report was developed and compiled by the Liberian Initiative for the Promotion of Rights, Independence, Diversity and Equality (LIPIRDE), a national coalition of civil society organizations advocating for the rights of all Liberians in respect of their gender, health status, diverse background, sexual orientation, and gender identity. Present membership is made up of 13 registered NGOs in Liberia, inclusive of Women Rights, PLHIVs, Key Affected Populations, Development, Media, and Human Rights Groups.

This report takes into consideration and accounts for all forms of violations against women, girls, boys, and other discriminated groups, showing marginalization of key populations including PLHIV and LGBTI. This report covers several topics and deals with issues such as:

- Protection
- Anti-Same Sex Legislation
- Utterances from Religious, Political, Civic Actors
- Public and Media threats
- Hate crimes messages
- Discrimination and abuses within law enforcement agencies
- Health care delivery services
- Peace and reconciliation
- Documented bias media reporting
- Articles published promoting hate crimes
- Sexual violence
- Human rights violations and abuses
- The impact of Ebola on PLHIV, LGBTI, and Sexual Minorities
- Religious sediments
- Limited access to health care delivery services
- National AIDS response in the fight against HIV
- Stigma and discrimination
- Documenting key affected populations
- Sexual violence
- Harmful traditional practices
- Penal Code and Sodomy law

The report provides evidence from individuals and case studies. The report illustrates the research conducted by the National AIDS Commission (NAC) on two studies documenting the existence of Key Affected Population in Liberia, namely: female sex workers (FSW); men who have sex with other men (MSM); and intravenous drug users (IDU). The NAC report shows that the prevalence rate of HIV and other diseases of these groups is higher than that of the general population. This report makes several recommendations to the Government of Liberia, the National AIDS Commission, the Independent National Human Rights Commission (INHRC), the Constitution Review Committee (CRC) and the United Nations Human Rights Council through the Universal Periodic Reporting (UPR) process in Geneva April 2015.

Issue #1:

1. Protection - Protection for all citizens including, PLHIV, LGBTI and other special vulnerable groups

The Constitution of Liberia provides protection for all Liberian citizens. According to the 2010 UPR on Liberia, the report states “Chapter III of the Constitution of the Republic of Liberia, among others, provides for the promotion and protection of the following fundamental rights: right to life; right to personal liberty; right to security of the person; equality before the law; right to be free from slavery and forced labor; right to freedom of movement; right to freedom of thought, conscience and religion; right to freedom of expression and the press; right to privacy and family life; right to peaceful assembly and association; right to equal opportunity to work; right to due process of law, including the right to trial by jury and reasonable bail; right to access to justice, including legal aid services to indigent citizens; right to be free of torture and inhumane treatment; right to own private property within Liberia and right to freedom from discrimination”.

The Independent National Commission on Human Rights (INCHR) was mandated as a part of the 2003 Accra Peace Agreement and passed into law in March 2005. INHRC currently is staffed with 5 commissioners and support personnel. Resulting from a referral by the Ministry of Justice (MOJ), the Commission invited victims from the Sekamu community located in the vicinity of SKD Boulevard to hear a complaint regarding attacks because of their sexual orientation. The victims were relocated to another neighborhood in a safe house on the GSA road. The INHCR is supportive of protection services and is creating awareness on human right abuses and violations of sexual minorities.

The MOJ and INHRC completed the National Human Right Action Plan (NAHRAP) with technical support from the United Nations Mission in Liberia (UNMIL) through consultation with civil society and human rights organizations successfully. The objective of the document is to improve Liberia’s human rights situation. According to NAHRAP, person of sexual orientations and gender identity (SOGI) were put in the report as vulnerable groups.

Human Rights Watch (HRW) publication entitled “It is Nature Not a Crime” documents 34 cases of abuse of LGBT in Liberia in 2013. In the HRW report, LGBT community members told personal stories about the different form of discriminations and abuses LGBT Liberian faced in Liberia.

Since the end of 2011, after the National Elections, there have been records of increase violations and human rights abuse of people perceived or actual have different sexual orientations and gender identity. These forms of discrimination and hate crime against a particular group violate the Liberian constitution.

Recommendation #1

- a) Establish an accountability mechanism by creating a “PLHIV, LGBTI and other Sexual Minorities Desk” within the Independent National Human Rights Commission (INHRC). This desk function can serve as a focal point for documenting cases which can lead to a fair and effective forum for ensuring justice for the crimes committed against discriminated and vulnerable groups. This will also facilitate the promotion of tolerance and acceptance of Women Rights, PLHIV, LGBTI, and other Sexual Minorities in the national development and reconciliation processes.
- b) The INHCR Desk should develop sexual orientation policies to protect women, girls, boys, PLHIV, LGBTI, and other Sexual Minorities. The Desk can also facilitate specific training for law enforcement agencies, civic organizations and other stakeholders. The Desk should promote policies that will enable the legal system and judiciary to abide by the International Covenant on Civil and Political Rights for all citizens.
- c) The National Constitution Review Committee should include issues affecting sexual minorities in the review process of the constitution. The issues that need to be reviewed relate to the Human and Sexual Rights of PLHIV, LGBTI, and key populations marginalized because of health status, sexual orientation and gender identity.
- d) The National Constitution Review Committee, after its review process, should propose amendments to the Constitution that strengthens the protection of Women Rights, PLHIV, LGBTI, and Sexual Minorities recognizing the human and sexual rights of all citizens. Sexual orientation is currently used discriminatorily as a means to prevent sexual minorities from running for public office or holding position in government due to extraneous interpretation of the sodomy laws.

Issue #2

2. Targeting Sexual Minorities through: Anti-Same Sex Bills; Utterances from Religious, Political, Civic Actors; Public and Media threats; hate crimes messages

Currently there are two Anti-same Sex Bills in the Liberian Legislatures introduced by Senator Jewel Howard Taylor and Representative Clarence Massasquoi. If these two bills are passed into law, the existence of same sex loving citizens would become a crime in Liberia. This prevents people from expression love for the same sex relationship. Passage of these kinds of legislation violates the Human Rights and Sexual Rights of sexual minorities, undermining the full protection of citizens under the Constitution and laws of the Republic.

Striking deficiencies within Liberia’s rule of law sectors have resulted in persistent human rights violation and have undermined the Government’s post-war recovery, reconciliation processes, and development agendas. The Truth and Reconciliation Commission (TRC) undertook significant efforts from 2006 to 2009 to provide an account of the crimes committed during

Liberia's wars. Recommendations from the Committee have still not been adopted and implemented.

During the TRC public confession of Senator Prince Johnson, he mentioned that the renowned Liberian musician "TR" was killed because he was gay. This killing took place in Senator Johnson's controlled area during the civil war. There has been evidence of the Senator preaching hate crimes against gays and lesbians in post war Liberia. He has accused western countries of being supporters of "gay" candidates in the electoral processes. In general, there is little political will to ensure that the rights of sexual minorities are protected.

LIPRIDE has documented an article published in the daily Observer which states: "I call on all Liberians to observe three days of national fast and prayer to seek God's face to have mercy on us and forgive our sins and heal our land, Liberia, as we continue to fight against the deadly Ebola virus." That statement followed an article published by the Liberian Council of Churches in the Daily Observer. The Council said that the Ebola outbreak has Biblical implications. According to the Council, "God is angry with Liberia. Ebola is a plague. Liberians have to pray and seek God's forgiveness over corrupt and immoral acts (such as homo-sexualism) that continue to penetrate our society. As Christians, we must repent and seek God's forgiveness."

Recommendation #2:

- e) Continue to strengthen the capability of the Independent National Human Rights Commission (INHRC), the National AIDS commission (NAC), and the Ministry of Justice (MOJ) to investigate discriminatory and abused cases of key affected population (KAPs) including sexual minorities and take punitive action where parties are found in violation of the law
- f) Encourage all government officials, appointed to the executive and judiciary, and elected to the legislature, to developed non-discrimination policies based on sexual orientation and gender identity (SOGI) in the work place this promoting full tolerance for diversity and equality. LIPRIDE to extend its advocacy to civic and private organizations to create a non-discriminatory workplace and promotion of tolerance.

Issue #3

3. Ongoing Discrimination and Abuses within Law Enforcement agencies and Health care delivery services

Sail filed a formal complaint to the Ministry of Justice through the Human Rights Unit of the Ministry. The MOJ referred the complaint to the local police deport for investigation. The complaint related to an assault on two gay men. During the police investigation, the perpetrators explained that they were dissatisfied with the sexual orientation of the men. The police imprisoned the victims and freed the perpetrators. Upon further advocacy from SAIL, UNAIDS and the United Nations Mission in Liberia (UNMIL) Human Rights and Protection Unit, the case was re-opened. The perpetrators confessed that they had lied on the victims. The perpetrators

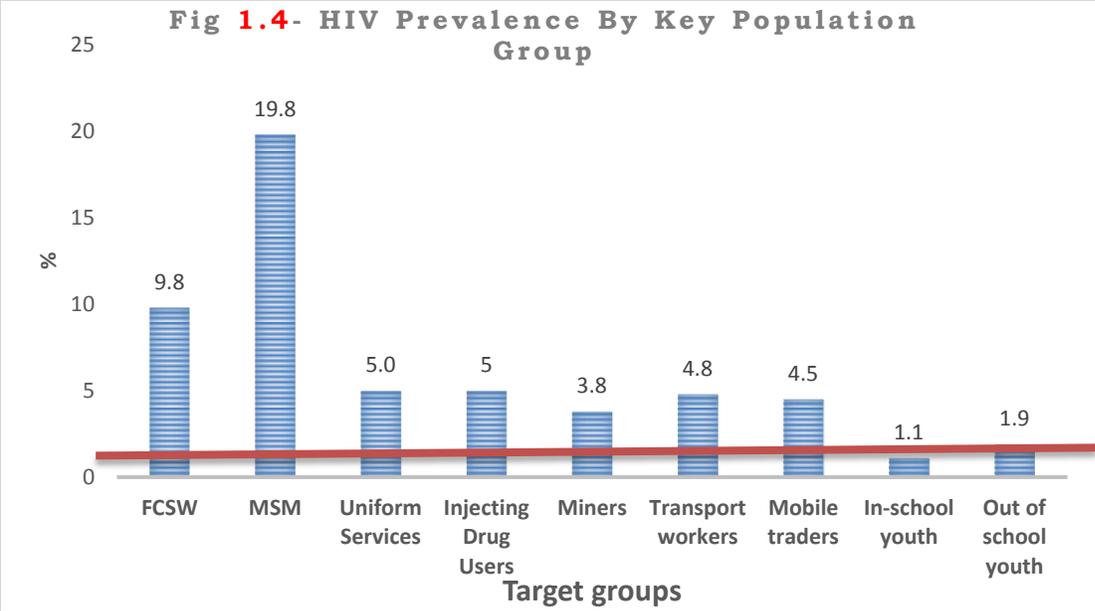
signed an attestation not to assault other citizens. Their statement were documented and filed by SAIL.

Public Health and Human Rights Issues affecting Key Populations and other Discriminated Groups (Lesbian, Gays, Bisexual and Transgender) in Liberia was documented in two major studies conducted by the National AIDS Commission (NAC) and the Ministry of Health and Social Welfare (MoH&SW). During the period 2011 to 2014, NAC and MoH&SW conducted the Size Estimates and IBBSS Studies. These two studies revealed higher HIV prevalence amongst Key Populations (Men who have sex with other Men (MSM), Male and Female Sex Workers (SW), and Intravenous Drug Users (IDUs).

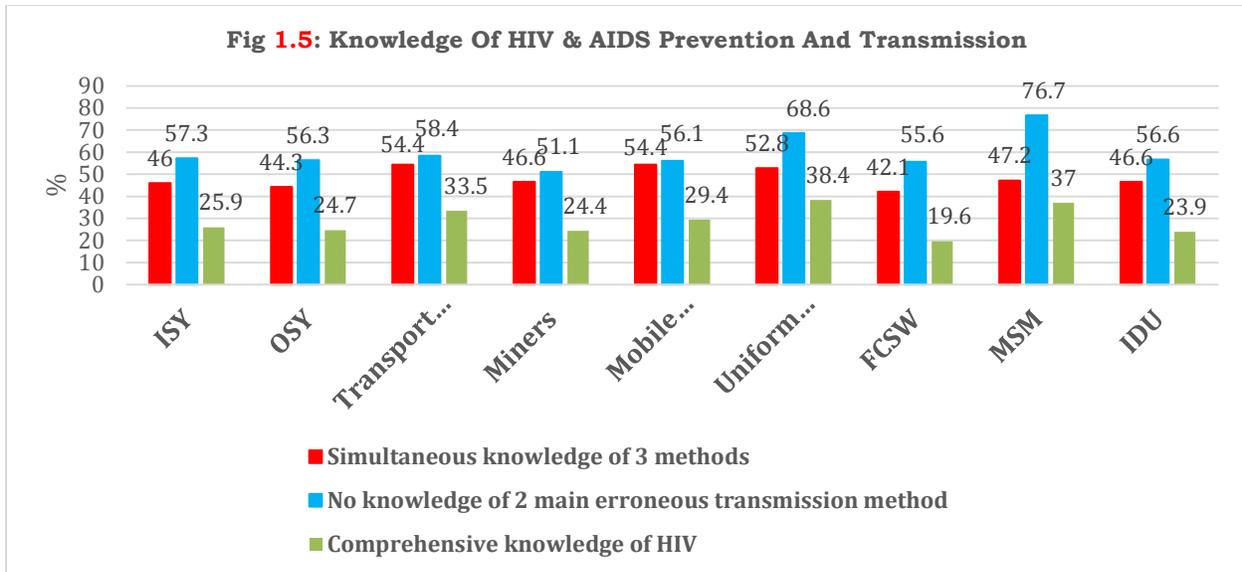
The national HIV response has always identified certain population groups including FSWs, MSM, and injecting drug users (IDUs) as the key populations (KPs) driving the epidemic in Liberia. The national HIV and AIDS Control Program (NACP) regard young people as vulnerable to HIV infection. NACP have targeted this group and provided them with HIV prevention information and services. This has been an effective tool in reducing the exposure to HIV and AIDS.

A 2011 Size Estimation Study of FSWs, MSM, and IDUs in Liberia estimated that there are 1,822 FSWs, 711 MSM, and 457 IDUs. However, many informed opinions consider these estimates as grossly underestimated and regard them as the tip of the iceberg. People below 30 years of age make up the bulk of the 3 key population groups: 84% of FSWs are below 30 years of age including 4% teenagers 13-15 years old, 78% of MSM are below 30 years of age with about 20% between the ages of 16 and 20 years, and 61% of IDUs are also below 30 years of age.

The 2013 IBBSS study shows evidence that KPs (FSWs, MSM, and IDUs) do not only have higher HIV prevalence than the general population but also there is a wide variation in prevalence between KPs and the general public. The study also clearly identifies young people, especially out of school youth (OSY), as vulnerable to HIV infection. Fig. 1.4 shows the HIV prevalence in the 2013 IBBSS study groups. Dramatically, MSM have the highest HIV prevalence (19.8%) followed in a distant second place by FSWs (9.8%), and then the uniform service (Immigration, Police, and Customs) and IDUs each have HIV prevalence of 5%. Other KPs that have HIV prevalence of below 5% are transport workers (4.8%), and mobile traders (4.5%). With prevalence just below the 1.9% in the general population, the youth, particularly out of school youth, are a vulnerable group for HIV infection.



The 2013 IBBSS also reveals disappointing level of comprehensive knowledge of HIV and AIDs among KPs and vulnerable groups (Fig 1.5). No knowledge of the two main erroneous transmission methods and simultaneous knowledge of three methods of HIV transmission were generally below average. It is particularly worrisome that many MSM have no knowledge of the two main erroneous transmission methods of HIV; unsurprisingly they have the highest HIV prevalence among the KPs.



Source: NSP 2014 National AIDS Commission (NAC)

Despite efforts to document behavior practices of sexual minorities, most at risk groups and key population in the national HIV and AIDS response horrific abuses and Violations has been committed against these groups in Liberia, including media promoting hate crimes toward them, Religious leaders blaming them for the cause of Ebola and immorality, Politicians openly attacking senators candidates perceived to have different sexual orientation from running and holding public offices, facilitating economic growth, but little headway in strengthening the rule of law.

Recommendation #3:

- g) Individuals or groups of people should be held accountable for on-going discrimination and abuses within law enforcement agencies and health care delivery services (SOGI) in the work place. There should be zero tolerance for discrimination, torture, blackmail, theft, extortion, or other hate crimes without full accountability.
- h) As a part of health strengthening, the national AIDS response, and the public health law, all patients regardless of their sexual orientation should be treated with respect and dignity, without any form of discrimination within health care delivery services. The government should enhance the capacity of the judiciary to hold accountable those within the police and other security and health care delivery services who commit such abuses

Issue #4

4. The Impact of Ebola on PLHIV, LGBTI, and Sexual Minorities

The impact of the on-going Ebola crisis in Liberia as it relates to PLHIV, LGBTI, and Sexual Minorities and other Key Population is noticeable. There has been a breakdown in the health care delivery system with limited or no alternative measures to services especially treatment. Since the outbreak of the Ebola Virus Disease (EVD), which was reported to have come from Guinea, there has been an increase in confirmed and suspected cases and has led a death toll of more than 1,000 lives. Outreach services to community groups by LIPRIDE coalition have been greatly reduced.

This situation has not only caused fear, panic and anxiety among the entire population but has also led to the declaration of a “state of emergency”, by the Government of Liberia. Curfew was imposed in Monrovia and West Point was quarantined, the largest slum community in Monrovia and Dolo Town in Margibi County. Hospitals and clinics were closed and have partially opened with limited services. The religious community has attributed the spread of this life threatening virus to the existence of homosexuals and members of the LGBTI community. This came out in a petition seeking 100 signatures headed by the Catholic Archbishop of Monrovia, the Rt. Rev. Jerome Zeiglah.

Recommendation:

- i) One solution to dealing with the issue of limited full services to women health, PLHIV, LGBTI, Sexual Minorities, and other Key Populations is for LIPRIDE to establish a safe house. A Safe House will be a long term solution to resolving many issues and problems associated with prevention, care provision, examination and treatment for HIV and other sexual infections. It will also serve as a safe place for R&R thus reducing stress for many members of the key population community.

Issue #5

5. Sexual Violence against Women, Girls, Boys, and other Discriminated Groups

The incidence of rape of women, girls and boys is alarmingly high, despite positive efforts by the government. Actionaid Liberia, SAIL, UNMIL, and other LIPRIDE coalition members have advocated through a public information campaign to encourage victims to report abuse. There is also advocacy for the establishment of a dedicated court for sexual violence. While public reporting and police response have improved in recent years, efforts to prosecute these cases continued to be hampered by deficiencies in the judicial system.

In an Open Letter to President Ellen Johnson Sirleaf, Montserrado Senatorial aspirant Chris Neyor stated that the MoGD was irresponsive to sexual abuse cases of boys and girls looking for employment in the public sector. In a response by the Press Secretary of MoGD, he openly stated

that the Ministry was not aware of any discrimination regarding sex for jobs and that the practice of same sex relations is a crime in Liberia.

Recommendation:

- j) It is recommended that MoGD recognize the existence of sexual minority and gender identity. MoGD should conduct evidence base research and use the results as a basis of making public statements.

Issue #5

5. Serious abuses resulting from harmful traditional practices

Serious abuses resulting from harmful traditional practices continue to occur in Liberia, due in part to the absence of laws banding such act. These included female genital mutilations, early marriages, and traditionalist not recognizing sexual behaviors amongst same sex loving gender. Some traditionalists perceive same sex partnership as being un-African. These local practices often involve extortion, extracting statements under torture, and other forms of physical and sexual assault.

Recommendation:

- k) It is recommended that legislations be passed to ban harmful traditional practices

Issue #6

6. Penal Code 14.2 Sodomy law

The Penal Code of Liberia criminalizes “voluntary sodomy” by same-sex couples but not by opposite-sex couples. This criminalization of same-sex sexual conduct is in direct violation of Article 2 of the African Charter, which guarantees the equal enjoyment of the rights of the Charter without discrimination and Article 3, which guarantees equality before the law.

Section 14.74 of the Penal Code, entitled “Voluntary Sodomy,” states that it is a first degree misdemeanour to engage in “deviate sexual intercourse under circumstances not stated in Section 14.72 [relating to aggravated involuntary sodomy] or Section 14.73 [relating to involuntary sodomy].”

Section 14.79 of the Penal Code defines “deviate sexual intercourse” to mean “sexual contact between human beings who are not husband and wife or living together as man and wife though not legally married, consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva,” and “sexual contact” to mean “any touching of the sexual or other intimate parts of a person for the purpose of arousing or gratifying sexual desire.”

Chapter 50 of the Penal Code specifies the penalties for violating the prohibition of voluntary sodomy as follows: Sections 50.7 and 50.9 provide that a person convicted of a misdemeanor of the first degree may be sentenced “to a definite term of imprisonment to be fixed by the court at no more than one year,” and to pay a fine of up to LBR\$1,000, subject to the restrictions stipulated in Section 50.10 on the imposition of fines.

Recommendation:

- 1) The Penal Code 14.2 Sodomy law can be employed to frame and blackmail sexual minorities and consenting same Sex Relationship. The incidence of rape of women, girls and boys is alarmingly high, despite positive efforts by the government. Actionaid Liberia, SAIL, UNMIL, and other LIPRIDE coalition members have advocated through a public information campaign to encourage victims to report abuse.

There is also advocacy for the establishment of a dedicated court for sexual violence. While public reporting and police response have improved in recent years, efforts to prosecute these cases continued to be hampered by deficiencies in the judicial system. It is recommended that LIPRIDE and other stakeholders advocate and lobby to repeal the Penal Code 14.2 Sodomy law.

References

- 1 UPR report on Liberia A/HRC/WG.6/9/LBR/1 2010
- 2 Size Estimate 2011
- 3 Human Rights Watch, *It's Nature, Not a Crime*:
http://www.hrw.org/sites/default/files/reports/liberia1113_ForUpload.pdf
- 4 IBBS study result 2014
- 5 NARRAP report 2014
- 6 Liberia Shadow report at the 55 session of the African charter and people and human Rights ACHPR Liberia Alternative Report 2014
- 7 NSP 2014-2017 National AIDS commission (NAC) Report Penal law, supra note 14, section 14
- 8 SAIL' Ebola situational analysis 2014
- 9 SAIL' religious and media analysis on LGBTI rights and protection 2014