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Shadow Report On the Situation of Lesbian, Gay, Bisexual, Trans and Intersex LGBTI Persons in Liberia

*Submitted for the **List of Issues** in relation to the initial report of Liberia
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1. Introduction:

The Lesbian and Gay Association of Liberia (LEGAL) which came into being on the 26th January 2012, seeks to voice out issues affecting Lesbian, Gay, Transgender, Bi-sexual, Intersex, Queer (LGBTIQ) community, people living with disabilities, HIV, sex workers and female injecting drugs users, in terms of access to social freedom, social justice, social economic empowerment, health, education, equality, freedom of expression, and access to other basic rights services as the fundamental rights of all Liberians under the Constitution of Liberia and the International Treaties.

LEGAL as a Human Rights Based Organization is dedicated to advocating for the wellbeing and protection of the LGBTIQ community and other discriminated groups in Liberia, for progressive social change, which is aimed at addressing the issues of oppression, discrimination, stigma, abuse, hate crime and limited access to other basic rights services, based on their sexual orientation, gender identity. LEGAL is committed to advancing, gender justice and a safe environment for its target groups in Liberia. LEGAL endeavors to promote, provide, foster and enhance access to health, education, social justice, economic empowerment, political participation, and protection for its target groups in Liberia.

2. Background

The situation of being a LGBTIQs person in Liberia is very difficult due to Laws o book that discriminates same sex practices according to Subchapter D (relating to sexual offences) of Chapter 14 of the Penal Law of Liberia criminalizes voluntary sodomy, Religious beliefs and cultural practices hinder LGBTIQs persons to enjoy their full human rights. This also cause LGTIQs people to be bully by community Dwellers. Those clause within the Penal Code that is used to discriminate ad stigmatize LGTIQs are as follows:^[1]

Section 14.74. Voluntary sodomy. A person who engages in deviate sexual intercourse under circumstance not stated in Section 14.72 [relating to aggravated involuntary sodomy] or 14.73 [relating to involuntary sodomy] has committed a first degree misdemeanor.

Section 14.79. Definitions relating to sections on sexual crimes against the person. In this subchapter:

- (a) "Sexual intercourse" occurs upon penetration, however slight; ejaculation is not required;
- (b) "deviate sexual intercourse" means 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 vulva;
- (c) "sexual contact" means 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 of Liberia specifies the penalties for violating the preceding laws

This report also focuses on issues affecting the LGBTIQs Community in terms of **violence, discrimination, limited COVID-19 preventive materials, access to food and housing, and abuse of social rights as challenges the LGBTIQs is facing in Liberia. They are neglected and face attacks by family members, coupled with attacks waged against people on the basis of SOGI, the criminalization of same-sex conduct** in the Liberian Penal code and the Anti-gay bill before Parliament.

Articles of the International Covenant on Civil and Political Rights that the Government of Liberia is currently in violation of include: (<https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>)... Some examples include: equality, assembly, association, liberty of person, freedom of movement, recognition before the law, no arbitrary detention, assembly, association, equal rights before the law.]

3. The right to privacy (Article 17) and non-discrimination (Article 2 & 26)

Current laws violate the right to privacy and non-discrimination. The Anti-gay bill, if passed into law, will breed more hate crimes against our community, that will heighten the vulnerability of the LGBTIQs community and make them at a high risk of insecurity or being jailed or killed. The Penal Code section, 14.73,74 and the Anti-gay bill are in violation of the African Charter¹ and the International Covenant on Civil and Political Rights² and the Constitution provisions on equality and protection for all Liberians.

The Penal Code of Liberia criminalizes “voluntary sodomy” by same-sex couples but not by opposite-sex couples. The criminalization of same-sex relation is in direct violation Liberia’s criminalization of adult, consensual same-sex sexual relations violates Articles 17, 23, 2(1) and 26 of the Covenant. As the Committee recognized in its 1994 decision in *Toonen v. Australia*, “adult consensual sexual activity in private is covered by the concept of ‘privacy’” protected by Article 17 of the Covenant.¹⁷ Accordingly, a State violates Article 17 when its penal code criminalizes same-sex sexual relations between consenting adults.¹⁸ This is so even if the laws have not been enforced in recent times.¹⁹ Liberia’s “Voluntary Sodomy” law also violates same-sex couples’ Article 23 right to form a family. The criminalization of adult, consensual same sex sexual relations also violates the guarantee of equality and non-discrimination enshrined in Articles 2(1) and (26), as it targets a specific group of individuals based on their real or perceived sexual orientation. Beyond leading to arrests, detentions and police abuse (as will be described below), Liberia’s of Article 2 of the African Charter, which guarantees the equal enjoyment of the rights of people without any form of 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 misdemeanor 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”.

In 2012, Representative Clarence Massaquoi **proposed a bill** to the House of Representatives that would amend the Penal Code to make same-sex “sexual practices” a second degree felony, punishable by up to five years in prison. The proposed amendment extends the ban to any action that “arouses or tends to arouse another person of the same gender to have sexual intercourse.” It also applies to any action that “willfully” and with total disregard to societal moral dignity, seduces, encourages, or promotes another person of the same gender to engage into sexual activities.” The bill is before the Judiciary Committee of the House of Parliament. **The second bill**, proposed in 2012 by Senator Jewel Howard-Taylor, would amend the Domestic Relations Law to prohibit same-sex marriage and make violation of the same-sex marriage prohibition a first-degree felony, punishable by a minimum of ten years in prison.

In Liberia some of these treaties or conventions are not domesticated, which makes it a challenge for people with different sexualities to access those basic rights and services as enshrined in the international laws or protocols in For example, the penal code (paras 14.73-75) which criminalizes same sex relations, and the two bills that are before the house of parliament, affects LGBTI people to access justice or other rights services at the local and national levels. In some case, when members of the LGBTI community make an effort to access protection whenever their rights are being violated, the case go against them.

Liberia being a signatory to a number of International Treaties³ which are mechanisms that can be used by member’s states signatories to defend its citizens without any forms of discrimination, stigma and abuse based on sexual orientation and gender identities are not being applied fully.

These laws facilitate discriminatory the **homophobic media landscape and homophobic public statements** made by official state figures, political leaders, traditional and religious leaders also

contradict international human rights law provisions⁴. The criminalization of same-sex conduct and the prevalence of homophobic media coverage and public statements against the LGBTIQs Community can be recorded as far back in 2012, when members of the community were unable to assemble in gatherings for fear of being attack as some community dwellers made the environment unsafe for our community members.

The current sodomy bills, the penal code and societal perceptions are issues impeding the livelihood and access to health/rights services for LGBTIQs people in Liberia. The LGBTI community members are also faced with rejection by their families if their sexuality is made known or heard about or when the land laws (House Owners) learn about their sexuality by community dwellers, they get notice from the house owner to leave the house. It is only in some cases, where house owners are more open and understand the human rights aspect of social existence and life according to the international law and the Constitution, that they welcome our community members into their homes to rent or live freely with them.

Some community members are forced to drop out of secondary school by the school administrators, because of their sexual orientation and gender identity and face bulling in schools and colleges. It was recorded in 2019, that a girl was put out of school, because she has a same sex relationship with one of the students, this story took the media like wildfire in Monrovia and there were lots of hate messages at the community levels and in the public.

Liberia being a Christian Nation that co-exists with other people of faith, is a patriarchal and homophobic society that promotes an unequal status and protection for the LGBTIQs community. The high sentiment of homophobia amongst its citizens against the LGBTIQs people, makes it difficult for the LGBTIQ community in Liberia to access basic human rights services, protection, land ownership, economic agency or participation in decision making at the local and national levels.

However, Liberians who are part of the **LGBTIQs** community cannot access rights and protection services and are further affected by a **penal code** which criminalizes same sex relations under a sodomy law and also finds it difficult to access basic health services too. For this reason, they are left in the closet with no form of redress to their plight. They also face issues of discrimination, threats, abuse or violence once sexual orientation and gender identity are expressed. These issues make the LGBTIQs community more vulnerable of threats to the larger extend. The **penal code** is often used to discriminate against the **LGBTIQ** community in Liberia whenever members seek social protection services under the law. It further affects their rights to access justice and often perpetrators go free, when members of the LGBTIQs community are attacked. In extreme cases, victims are jailed.

4. Access to justice (Article 2 & 14)

The **marginalized groupings** in Liberia has challenge in access to justice, which is lead to insecurity, fear of being jailed, breed attacks, physical assaults, discrimination and stigmatized against all because of their sexualities or the space they find their selves is not safe, despites the limited access to basic health care services, which led to members of the LGBTIQ Community to be neglected and face untimely death. This also led to the rapid spread of the HIV and AIDS virus amongst the LGBTIQ Community due

to lack of awareness on information about prevention, treatment, testing, counseling and support which also lead to the spread of the virus.

The issue insecurity and protection in terms of social freedom registration of association and other basic rights services. This situation puts the LGBTI community vulnerability at high risk at the local and national levels in Liberia. If Liberia is to forge ahead as **one people, one nation**, with diversity, also taking into consideration the struggle which, **LGBTIQs**, and other **vulnerable groups** are faced with in today's Liberia is huge and it should draw the attention of the government of Liberia to institute a policy that will seek to address these issues and ensure that health, rights and protection services for all at the local and national levels in Liberia under the Constitution.

5. The right to freedom of assembly (Article 22 of the Liberian Constitution), expression, Article 22) and association (Article 22 of the Liberian Constitution)

In some communities the issues of freedom of expression, freedom of association, aggression, bullying, castigation, blackmailing, hate crime, stigma, discrimination and abuse in the private and public spaces are huge challenges for the LGTBTIQs community

6. Attacks against the LGBTI Community and Human rights defenders

The LGBTI Community is constantly faced with the issues of abuse, attack, stigmatization, discrimination, inequality, lack of access to justice and domestic violence in the homes, at job sites, in the streets, rural and urban areas in Liberia this is a violation of **Articles 19 and 26 of the ICCPR**. LGBTI persons are face with huge challenges in the Liberian society and they are also the less fortunate and under privilege people who are consider as demonic people and not of GOD. This perception of some members of the Religious community posts a challenge to members of the LGBTI Community to freely access religious services at the local and national levels. These people strive daily for substance to cater to their needs, majorities are unemployed and some are sacked at work places because of their gender identity. They also strive to make their plights heard, but no one wants to listen to their cry because of their sexuality and this is a major challenge for LGBTI people.

Case examples of violence LGBTIQs have experienced and face with: *In the month of November-January-July 2020, the LGBTIQs Community is highly hit with hate messages in Churches, Mosques, Media and in the community for COVID-19*

In the month of November 2019, LGBTIQs gathering was disrupted in the Sinkor and people got wounded from the incident and property got damage, community members were chased from their homes in the community and are now seeking for relocation,

Another community member went out to a bar for social night, whilst in the process of having fun with his straight friends, the nest day morning we got the report that one of our community members was thrown down from a one story building and die on the spot. According to the story, the act was committed by those friends that he hangs out with that night. Where the incident occurred, was closed down by the government of Liberia for three month and later reopens.

During the month of May, 2020, 6 of our community members were attacked and homes broke into by some homophobic people from the community they live.

In the month of July, 2020, the residence of the head of the transgender network of Liberia was attacked by community mob, for reason of being trans and keeping into her home gay, lesbians, bisexual people in the community.

In June of 2020, a live interview was conducted by the Ministry of Information Press Team with one of the members of our community on his fashion fair, the interview turnout to be on his sexuality and he made mentioned of 99% of Liberia men who bully him are gay, but the media took it differently and put our community in danger.

June, 2020, Our community member was attacked and beating as the result of her sexuality. This incident occurred around the ELWA Community.

In February, 2020, A police Officer beat on one of community members in the West Point community in Monrovia. The case was reported to LEGAL and through the intervention of Solidarity Sisters Network, which is the protection Arm of the LGBTIQs Community, the Officer was summed to the Professional Standard of the Liberia National Police for questioning.

In April, 2020, Vincent Willie from Grand Bassa County brought out the Anti-Gay Bill for discussion and if agreed by his fellow parliamentarian can be voted to be sent to the House of Senate for passage into law. Grand Bassa is one of the counties that has a huge number of our community members

In the month of March, 2020, one of the community members, who is a soccer player and playing for one of the female teams in Monrovia, was attacked on the radio by the presenter who was presenting the early morning talk show on the radio. This led to one of the official of the Liberia Football Association to make a public statement by saying he will make sure to get all the lesbians out of the game and the institution. This statement puts other players at risk.

If Liberia is to progress as a nation state, tradition, religion and social norms should include the rights and protection for all as the means of promoting sustainable peace, tolerance, acceptance, development and empowerment and get involve in human rights advocacy process at the local and national levels from a realistic stand point of view.

Conclusion

The Lesbian and Gay Association of Liberia (LEGAL), seeks to address the plight and advocate for the rights and protection of the LGBTI community so as to create an environment where the **rights** of all will be **respected**, and to have fair **Justice and a voice within the Liberia society**. Because the wellbeing of **LGBTI individuals especially lesbians, Trans women, men, boys and girls** in Liberia must be included in policy. Their **health, economic institutions, education, equality, justice, and social** needs, cannot be

under estimated, and taking into an account their basic **fundamental rights** serve, as the **cardinal issues** that have to be considered and given serious attention following the years of civil conflict.

Recommendations:

- The Government of Liberia should:
 - Repeal the **penal code** section 14.73,74,75 and 14.79 and all other laws that are discriminatory to the survival of LGBTIQ People in Liberia, stop the passage of the two bills that are pending before the house of parliament that criminalizes same-sex act and imprisonment and replace it into policy or laws that will protect the rights and well-being of the LGBTIQ Community in Liberia
 - The Government of Liberia should be more proactive in addressing LGBTIQs rights and protection issues in amending those discriminatory laws or policies that are affecting the rights and protection of LGBTIQs people in Liberia.
 - The Government of Liberia should establish a special desk within the justice system that will handle LGBTIQs related cases without any form of gender discrimination, stigma, abuse or hate
 - Government should institute policy that will reduce hate crime and violence against LGBTIQs community in Liberia;
 - The Government of Liberia should domesticate Resolution 275 and other International Human Rights Treaties that the Liberia is signatory to, so as to address human rights issues in Liberia properly to enhance the rights and protection of all Liberian, regardless of their sexualities.
 - Government line ministries and entities should fully work with human rights Institutions to strengthen and conduct human rights advocacy training heads of community based organization and community leaders at the community level and engage key Duty Bearers and Community Leaders in the fifteen counties of Liberia so as to create a clear picture and platform on LGBTI issues as human rights issues;
 - Government should institute policy that will allow free and safe access to health care services as it relates to Sexual Reproductive Health and Rights and other rights services for LGBTIQs persons in Liberia, without any form of gender discrimination, stigma, hate, or abuse;
 - Government of Liberia should conduct a monthly documentation of Human Rights abuse cases at the local and national levels for redress;
 - The UN should work along with the LEGAL, TNOL, SoSNoL and other LGBTIQs Networks to conduct community needs assessment in the 15 counties to identify other issues affecting the LGBTI Community and identify priorities needs and intervention.
 - The Government of Liberia should conduct speedy trial of alleged sodomy cases at the court level within the 15 Counties of Liberia
 - Government should protect all rights as it is indivisible to ensure equality for all under the constitution
 - The government of Liberia should follow and act upon all the recommendation from recent SOGIE report on Liberia.
 - The Ministry of Youth & Sports through the Liberia Football Association should stop hunting, hate speeches, discrimination and stigma against people of Sexual Orientation and Gender Identity.

- The government should be able to show what they have done by domesticating treaties, conventions and protocols eg. African Commission Resolution 275, the Universal Declaration of Human Rights, the Yogyakarta Principles, the national human rights action plan, etc.

Proposed Questions to the Government of Liberia

- How does the government of Liberia, intend to address the issues of Religious Fundamentalism, Cultural and Racial Discrimination that are breeding hate crimes, violence, abuse and attack against the LGBTIQs persons and communities in Liberia?
- Following all the challenges that the LGBTIQs Community is faced with, in relations to the law, the penal code or the bills that are before the house of parliament which was proposed by Representative Clarence Massaquoi of Lofa, with additional amendment from Isaac Roland of Maryland County to make same sex practices a no-billable offence. This Act which was introduced would cause a person to be found guilty of same sex practices if he or she had sexual intercourse with a person of the same Gender, with or without the consent of either person. What mechanism the Government of Liberia intends to use to decriminalize these laws or proposed bill and the penal code provision that speaks against the LGBTIQs Community?
- In terms of access to health care services, protection and other basic rights services for the LGBTIQs Community what the Government of Liberia is doing about this?
- There are members of the LGBTIQs Community who are been placed in prison since 2010-present for alleged sodomy, what the government of Liberia intend to do about this, so as to provide fair justice and protection for these people who are part of the Country's Population?
- Why the government of Liberia is finding it difficult to implement those international treaties and conventions which they are signatory to?

Notes:

¹ Criminalization of consensual same-sex relations directly contravenes Article 2 of the African Charter (that guarantees the enjoyment of the rights and freedoms of people without any form of discrimination) and Article 3 of the African Charter (that guarantees equality before the law).

² See eg *Toonen v Australia*, CCPR/C/50/D/488/1992, communication no. 488/1992, views of 31 March 1994.

³ Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, Convention on the Elimination of All Forms of Discrimination against Women, International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Rights of the Child, Convention on the Rights of Persons with Disabilities, Resolution 275 of the African Commission on Human and People's Rights and other treaties.

5. The COC Regional Report on Liberia 2020

6. The Coalition of African Lesbians Research Report 2020

7. The American Jewish World Service Report 2018

8. The Liberia SOGIE Project Report

⁴ Homophobic speeches are in violation of the obligation of member state countries to ensure non-discrimination, mutual respect, and tolerance under Articles 2 and 28 of the African Charter.