DIG NITY, EQ UALITY, FREEDOM:
Enforcing International Human Rights Standards in Haiti

MADRE & IGLHRC
Trainings Report
October 7-11, 2013

Prepared for
The UN High Commissioner for Refugees, Haiti Office
Dignity, Equality, and Freedom:
Enforcing International Human Rights Standards in Haiti

Table of Contents

I. Introduction ........................................................................................................................................1
II. Why an Open Dialogue on LGBT Rights? .................................................................1
III. Trainings with Grassroots Organizations ......................................................................2
IV. Training Evaluations ........................................................................................................4
V. Workshop with INGO and UN Agencies .....................................................................5
VI. Workshop Evaluations .......................................................................................................9
VII. Recommendations .............................................................................................................9
Dignity, Equality, and Freedom: Enforcing International Human Rights Standards in Haiti

October 7-11, 2013
Post-Trainings Report

I. Introduction

During of the week of October 7-11, 2013, MADRE & IGLHRC convened a workshop and trainings in Port-au-Prince, Haiti with LGBT grassroots organizations SEROvie and FACSDIS, and with KOFAVIV, a grassroots women’s organization providing direct services to gender-based violence survivors, including members of the LGBT community. The convening, entitled Dignity, Equality, & Freedom: Enforcing International Human Rights Standards in Haiti, was sponsored by UNHCR and hosted by MADRE, the International Gay and Lesbian Human Rights Commission (IGLHRC), and the International Women’s Human Rights (IWHR) Clinic at CUNY Law School.

II. Why an Open Dialogue on LGBT Rights?

On July 19, 2013 over 1,000 people gathered in the streets of Port-au-Prince, Haiti to protest against LGBT rights. The protest was marked by extreme homophobic language and threats of violence, including a song in which the protesters chanted threats “to burn down parliament if its members make same-sex marriage legal,” according to the Haitian media. Some protesters, armed with knives, sticks, blocks, and other objects, began attacking people perceived to be homosexual or gender non-conforming. The protest incited hatred and invited an abrupt and severe escalation of violence in the days following. Individuals perceived by protesters as being LGBT reported being harassed, beaten and watching as their houses were set on fire. SEROvie documented 47 acts of physical aggression between July 17 to July 24, 2013, including attacks with knives, machetes, cement blocks, rocks, and sticks. Many Haitian LGBT people
were forced to flee their homes for fear of persecution, ending up displaced.

This first protest sparked a wave of violence and intimidation that swept across the country against LGBT Haitians resulting in a marked increase in intimidation, displacement, and violence. Tensions that lead to recent violent trends can be traced through the last few years. For example, in the weeks following the January 2010 earthquake, radio shows regularly broadcasted programs alleging that LGBT people’s existence in Haiti had “incurred the wrath of God” and “caused the earthquake.” During the February 2012 Carnival, popular stations played songs with lyrics such as “kill the gays” and “gays are guilty of the situation in Haiti.”

Discrimination has been reinforced in various public sectors, including among doctors, nurses, teachers, judges, lawyers, police officers, and other public employees. Some Haitian politicians have alleged that homosexuality is “foreign” to Haitian culture as well as unnatural. LGBT community members have reported that Haitian police engaged in discrimination by arbitrarily arresting LGBT people solely on the basis of their sexual orientation and/or gender identity and charging them with having violated the prohibition against “public indecency.”

Due to the recent escalation in violence against LGBT Haitians, UNHCR called for the series of trainings to foster collaboration, strengthen accountability, and begin much needed dialogues on how to prevent and address abuses committed against LGBT persons, and resulting displacement.

III. Trainings with Grassroots Organizations

Each training gathered together a dynamic group of participants from SEROvie, FACDIS, and KOFAVIV. Participants engaged in open discussions about human rights abuses based on sexual orientation, gender, and gender identity, and engaged in educational activities designed to teach documenting, advocating and framing abuses under international human rights law.

The first training, held at SEROvie and FACDIS’ office in Port-au-Prince, involved 40 state and members participating. The same training was held at KOFAVIV’s Women’s center, with roughly ninety-eight participants. Both trainings focused on
gender-based violence (GBV) as well as LGBT discrimination.

The first training session consisted of foundational training in human rights treaties that Haiti has ratified, specifically focusing on the International Covenant on Civil and Political Rights (ICCPR), and the breadth of coverage in human rights that women and LGBT persons have under international human rights law. In exploring human rights advocacy, participants closely examined articles of the ICCPR that corresponded with human rights abuses they may have suffered or witnessed.

Trainers explained how members of civil society could use their stories to contribute to the reporting process under the ICCPR for the review of Haiti. Participants then engaged in a brainstorming activity that started with sharing incidents of violence they experienced. Next, they worked to frame these experiences as human rights violations and to identify where there were violations under international human rights law. Using these frameworks, participants then discussed important information to include when documenting human rights abuses.

The second session focused on methods for documenting GBV and LGBT human rights abuses, and how credible, verifiable documentation can be utilized to inform practical solutions for addressing such violence. This session also explored how human rights defenders can document their own experiences, how community members can conduct victim interviews to record the first-hand experiences of their peers, and how individuals can document abuses through post-crime investigations. Participants then broke out into small groups and created a list of challenges to documenting instances of human rights abuses by examining a hypothetical situation of abuse. Representatives of each group then shared their findings with the larger audience and participants evaluated whether sufficient information was collected. The session concluded by stressing the value of credible and verifiable human rights documentation for furthering LGBT rights and creating fundamental change.

The afternoon session explored how to engage in civic participation, including a review of Haiti’s legislative process, as well as Haiti’s proposed penal code revisions that, if passed, would codify SOGI as protected classes. Participants discussed how advocates can use the penal code revisions to mobilize community members around issues adversely affecting their community. The session also highlighted the structure of effective testimonies before
local government and international organizations to rally support for advocacy proposals. The exercise was dynamic and lively with four participants volunteering to be ‘representatives of the Haitian government’ and asking difficult questions of each group representative who presented their testimonies. This activity served as a teachable moment, demonstrating the importance of including accurate and credible documentation of human rights violations in testimonies before national and international bodies.

As a concluding group activity, participants met in small groups to create mock testimonies before the Human Rights Committee, which will review Haiti’s human rights record next year.

IV. Training Evaluations
Each participant was asked to rate the training and its overall effectiveness in an evaluation form. The vast majority of participants stated that the training was extremely useful. Several participants from the FASCDIS, SEROvie and KOFAVIV trainings also expressed interested in receiving training to instruct others in the material presented. An overwhelming majority of all participants felt that the session on preparing testimonies had the strongest impact on them. Participants also stated that trainings on addressing local and international authorities, and documenting human rights abuses were useful.

All of the participants from the FASCDIS, SEROvie and KOFAVIV trainings indicated that they would share the knowledge acquired at the training with other community members. One KOFAVIV participant wrote, “I am so glad I was able to attend this training, and I cannot wait to share it with others back home.” Another participant wrote that she “believes every single woman in Haiti should be aware of these international laws and the Draft Law [penal code revisions],” and that she would do her part to inform them.

When asked how this training compared to other trainings, some participants at FASCDIS, SEROvie and KOFAVIV indicated that they had not received any training prior to this one. Those without prior training said they wished they had this training before experiencng violence because they would have known what to do. Other participants wrote that they were thankful for the training and felt that it will improve the quality of their advocacy. Overall about 75% of all participants indicated that a single training was too short and that they would like similar follow-up trainings to be organized regularly. About 50% of all participants expressed interest in learning more about the current
debates around the same-sex marriage issue discourse in Haiti and in navigating sectors of religion as an LGBT individual.

V. Workshop with INGO and UN Agency Representatives

On October 9, 2013, MADRE conducted a workshop for UN representatives from a diverse set of UN agencies and international NGOs including UNESCO, UNAIDS, UNDP, MINUSTAH, UNICEF, OXFAM, IOM, and the International Federation of Red Cross and Red Crescent Societies. The workshop focused on LGBT discrimination and violence in Haiti, barriers to accessing justice for the LGBT community and potential law reforms. The first session laid a foundation for discussing LGBT discrimination and violence in Haiti. It began with a presentation on terminology used internationally to refer to sexual orientation and gender identity. Next speakers covered the international human rights law frameworks that apply to the Five Urgent Areas of State Action identified by the Office of the High Commissioner for Human Rights as necessary to protect LGBT human rights. These urgent areas include states’ obligation to protect individuals from homophobic violence and the obligation to prevent torture and cruel, inhuman and degrading treatment of LGBT individuals.

Next, Mr. Gerald-Marie Alfred, a member of SEROvie, discussed the pervasive climate of impunity that exists for perpetrators of LGBT-motivated violence in Haiti. While significant structural barriers inhibit the administration of justice for all Haitians, LGBT Haitians face additional barriers as a result of their SOGI (or perceived SOGI) status. Medical personnel, police, prosecutors, judges, and lawyers often lack training and sensitivity on LGBT issues and sometimes hold deep-seated discriminatory beliefs and biases that make them ineffective at protecting the community. Alfred also indicated that many LGBT individuals do not report crimes of violence or seek medical help because they know they will be turned away from police stations and hospitals.

Some participants were skeptical of Mr. Alfred’s claim. One commentator even went so far as to compare homosexuality to cholera, claiming that homosexuality was a disease that arrived in Haiti much like the cholera epidemic. Highlighting Article 12 and Article 19 of Haiti’s Constitution, which guarantee the right to freedom of speech and association and the right to life and security of person respectively, Alfred noted that Haitian law provides for general principles of equality and nondiscrimination and incorporates international and regional human rights instruments that should directly enhance the safety and dignity of LGBT people. He explained, however, that Haiti lacks a strong legal framework for
enforcing the rights of LGBT Haitians, and that the law does not explicitly provide protections against anti-LGBT violence and discrimination.

Mr. Jean Baptiste Dyliet, an attorney with the organization, Defenders of the Oppressed (DOP), led the next session. Mr. Dyliet presented on legal obstacles LGBT individuals face when seeking justice and recourse to the courts, including financial barriers. For example, Mr. Dyliet noted that if a victim cannot pay for a medical certificate after an attack, this may adversely impact his or her case since medical certificates play a fundamental evidentiary role. (There are few evidence collection mechanisms in Haiti). Mr. Dyliet also noted that LGBT individuals are often afraid to testify before judges because of fear of discrimination or reprisal in the court system. Mr. Dyliet elaborated, “If an effeminate gay man were to go before a judge, straightaway the judge would say, ‘hey, act straight.’”

In response to a participant asking if one can still have a claim despite not having a medical certificate, Mr. Dyliet stated that “there is not much of a claim without a medical certificate.” This comment caused a stir and a healthy debate ensued.

Although a medical certificate is not explicitly required under Haitian law as evidence of sexual violence, in practice, a medical certificate is treated as a legal requirement for pursuing a complaint of sexual violence. Specifically, LGBT victims of sexual violence in Port-au-Prince report and subsequently turned away by the prosecutor’s office or dismissed from court by judges because the medical facility refused to provide the victim with a medical certificate.

Mr. René Magloire, former Minister of Justice, explained that a medical certificate is not required to bring a claim, but that the medical certificate functions as corroborating evidence. Medical certificates can also function as further testimony by the victim. Despite the current role of medical certificates in the Haitian legal system, Mr. Magloire reiterated that one must not be dissuaded from reporting a crime if he or she does not have a medical certificate, since the document is not required to bring a claim under law.
Mr. René Magloire, former Minister of Justice and Chair of the Ministerial Commission for the Modernization of the Penal Code and the Criminal Procedure Code, led the afternoon session on Haiti’s penal code revisions. In response to violence and discrimination based on sexual orientation and gender identity, Mr. Magloire emphasized a need for advocacy to address homophobia and transphobia within public sectors. He noted that local authorities, namely police officers and medical personnel, must receive proper sensitivity and equal rights training that would create a cultural shift in the perception and treatment of LGBT community members. Mr. Magloire also explained that judges must be trained to understand the rights of LGBT individuals so that they apply the laws equally to all individuals, regardless of a victim’s sexual orientation or gender identity. Mr. Magloire underscored that in the new Haiti Penal Code revision draft would include sexual orientation and gender identity as protected classes from discrimination under Articles 215 and 215-1.

One participant reiterated Mr. Magloire’s point by noting that if the Haitian police are not properly trained, there is no guarantee that these penal code revisions, if passed, will be implemented. Mr. Magloire responded that there should be a special brigade of the Haitian police designated to address LGBT issues. Another participant commented that judges have made strides in understanding gender-based violence and that this transition took years to come to fruition. “Go slow and people will adapt to changes,” she advised.

The second session of the afternoon consisted of participant breakout sessions, with each group focusing specifically on one of three central questions:

1. Why do LGBT individuals have the right to live without violence and discrimination?

2. How can Haitian society help people respect the rights of LGBT individuals?

3. Should there be support for the adoption of the Penal Code Revisions?

After deliberating, participants reconvened and a representative from each group presented the outcomes of their discussions. With regard to the first question, the first group’s spokesperson reported that the group was torn on whether LGBT individuals deserved to enjoy all human rights. Another speaker
from the same group commented that there are no outlets for the LGBT community in Haiti. For instance, there are no community centers or locales where LGBT individuals can freely express themselves or freely assemble. These sorts of places would offer safe gathering spaces and help inform community members about these rights.

In response to question number two, representatives from the second breakout group identified institutions that are well positioned to ensure protection of LGBT rights. This included local police, hospitals, courtrooms and schools. The speaker explained that by properly training the leaders in these sectors, and conducting an education campaign aimed at raising awareness of LGBT rights, society could be encouraged to interact more favorably with LGBT individuals.

Another speaker from the group disagreed, suggesting that while there is a need to integrate more tolerance within Haitian culture, it would be fruitful to “conduct more anthropological studies” about this issue to gain a better understanding of sexual orientation and gender identity exploring whether sexuality is biologically or culturally passed on. Speakers shared social science research findings that overwhelmingly conclude that an individual’s sexual orientation and gender identity are innate.

Finally, in response to question number three, representatives from the third group said that civil society groups should create capacity building for local groups that are already involved in training and mobilization around the penal code revisions. Community members could also support awareness campaigns geared towards educating the public about the penal code revisions. One representative explained that religious groups must be made aware of the revisions and be educated about its importance in addressing violence and discrimination against LGBT individuals in Haiti.
VI. Workshop Evaluations

The majority of attendees felt that Mr. Magloire’s session was the most interesting aspect of the workshop. Several participants noted that it was interesting “to meet an LGBT individual” (referring to Mr. Alfred) and hear accounts of the routine discrimination LGBT persons experience.

Over 50% of participants were pleased with how the workshop was organized, but about half felt that the workshop was too short. Several participants suggested that the workshop should have been held over a two to three day period. A majority of attendees said that they would share the information they learned with others, while roughly 20% of participants wrote that they would need the information to be condensed and put in laymen’s terms in order to disseminate the information to greater society. About 80% of attendees indicated that the workshop has influenced how they will interact with LGBT individuals in the future, with one participant noting that he plans to “bring awareness to his colleagues and employees.”

VII. Recommendations

1. Create and support safe spaces or community centers where LGBT persons can safely gather and discuss issues that affect them.

2. Create trainings for police officers, prosecutors, and judges on Equal Rights for LGBT Haitians.

3. Create safe housing protections for displaced LGBT persons and those under threat of violence or imminent danger.

4. Provide housing assistance for LGBT persons who are displaced due to violence based on their sexual orientation or gender identity.

5. Create sensitivity trainings for medical personnel on LGBT issues.

6. Hold additional roundtable discussions with first responders and key government actors.

7. Hold trainings with LGBT groups and organizations providing services to LGBT persons on documentation, security, and data collection.

8. Hold a series of international roundtable discussions on intersecting issues with first responders, healthcare providers, law enforcement, policy makers, and religious leaders.


10. Enhance legal protections for LGBT persons and bring Haiti into compliance with international law.
Dignity, Equality, and Freedom: Enforcing Human Rights Standards in Haiti