



**African Commission on Human and Peoples' Rights
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**Report on the Violation of Rights on the Basis of Sexual Orientation and Gender Identity in
the Republic of Cameroon**

**Under the African Charter on Human and Peoples' Rights
in response to**

**The Third Periodic Report of the Republic of Cameroon
presented at**

**The 53rd Ordinary Session of the Commission
April 2013**

prepared by

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an NGO with Observer Status at the African Commission on Human and Peoples' Rights since
1991**

CAMFAIDS – the Cameroon Foundation For AIDS

Le Réseau des Défenseurs des Droits Humains en Afrique Centrale (REDHAC)

and

L'Association pour la Défense des Droits des Homosexuels (ADEFHO)

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The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications.



Cameroonian Foundation for AIDS
CAM-FAIDS

CAMFAIDS—the Cameroonian Foundation For AIDS—is a non-governmental association based in Yaoundé established in May 2010 by young Cameroonians eager to contribute to the fight against HIV/AIDS and sexually transmitted infections, particularly in the LGBTI community in the city of Yaoundé. CAMFAIDS is a member of the Pan Africa ILGA. CAMFAIDS' primary objectives are to promote and facilitate access to health services and to fight for equality and protection of human rights in the community.



Le Réseau des Défenseurs des Droits Humains en Afrique Centrale (REDHAC) (Network of Human Rights Defenders in Central Africa) was established in April 2007 in Kigali, Rwanda. Since July 2010, REDHAC's headquarters has been in Douala, Cameroon. REDHAC's goal is to ensure recognition of the status and protection of human rights defenders in Central Africa. Its objectives are to strengthen the capacity of human rights defenders, to provide legal protection for human rights defenders, and to undertake advocacy for the physical and psychological safety of human rights defenders in their professional work.



Legally registered in Cameroon since 2003, L'Association pour la Défense des Droits des Homosexuels (ADEFHO) (the Association for the Defense of Homosexual Rights) is a national human rights organization based in Douala that provides legal defense to people discriminated against on the grounds of sexual orientation or gender identity.

Colin Stewart, editor/publisher of the Erasing 76 Crimes blog (76crimes.com), and the ILGA - International Lesbian, Gay, Bisexual, Trans and Intersex Association, contributed to this report.

“Gay people are and will forever be part of the human family. In Cameroon, they are ordinary people who did not choose to be who they are; they are our brothers and sisters, fathers and mothers, friends, classmates, colleagues, neighbors, faithful people and believers. No one deserves to die tortured. No one deserves to be killed. We all have the right to life, dignity, respect, and development.”¹

“I would refuse to go to a homophobic heaven. No, I would say sorry, I mean I would much rather go to the other place...I would not worship a God who is homophobic and that is how deeply I feel about this.”

Archbishop Desmond Tutu²

EXECUTIVE SUMMARY

1. This report addresses Cameroon’s compliance with its human rights obligations with regard to sexual minorities. This report concludes that the Government of Cameroon routinely persecutes and condones discrimination against people on the basis of perceived and actual sexual orientation and gender identity. By outlawing consensual same-sex sexual relations and fostering a climate of impunity for officials and private persons who abuse, torture, rape, and murder people who are lesbian, gay, bisexual, transgender, and intersex (LGBTI), the Cameroon Government perpetuates hostility, violence, discrimination, and stigmatization against its own people. This environment encourages hate crimes against sexual minorities and their defenders and precludes an effective national program to combat HIV/AIDS. Human rights defenders in particular have been threatened, attacked, tortured, and killed as a direct consequence of the Government’s public condemnation of sexual minorities and the culture of homophobia that the Government has fostered.
2. The report consists of four parts. Part I (pages 5 to 8) surveys Cameroon’s regional, international, and domestic human rights commitments, which mandate equality, freedom, security, and respect for sexual minorities. Part II (pages 8 to 18) describes the repeated efforts of the regional and international human rights communities to urge the Government of Cameroon to protect and promote the rights of sexual minorities. It also sets forth the reasons the Government of Cameroon has given for rejecting its obligations and identifies critical flaws in the Government’s arguments.
3. Part III (pages 18 to 44) recounts in detail the ways in which the Government of Cameroon has failed to uphold its human rights obligations with respect to sexual minorities. Each subpart concludes with specific recommendations to address the human rights violations described in that subpart.
 - Subpart A (pages 18 to 24) describes the vulnerability and insecurity of human rights defenders in Cameroon who serve and support people who are LGBTI and the Government’s active role in creating a climate of impunity for those who endanger and harass these human rights defenders.
 - Subpart B (pages 25 to 30) details how enforcement of Cameroon’s law against same-sex conduct violates prohibitions on arbitrary arrest, torture, and ill-treatment, and

¹ Press Release quoted in *To Cameroon: Here’s how to stop anti-gay hate and murder*; <http://76crimes.com/2013/07/19/to-cameroon-heres-how-to-stop-anti-gay-hate-and-murder> July 19, 2013

² BBC News, *Archbishop Tutu would not worship a homophobic God*, July 26, 2013, <http://www.bbc.co.uk/news/world-africa-23464694?print=true>. Archbishop Tutu likened the campaign against homophobia to the campaign waged against racism in South Africa and said: “I am as passionate about this campaign as I ever was about apartheid. For me it is at the same level.”

violates individuals' rights to privacy and security, as well as their right to be free from discrimination on the basis of sexual orientation.

- Subpart C (pages 30 to 34) explains how criminalization, discrimination, and stigmatization of same-sex sexual conduct in Cameroon undermine efforts to prevent and treat HIV/AIDS.
- Subpart D (pages 34 to 39) describes acts of violence and harassment by private parties and non-governmental organizations directed toward sexual minorities and identifies how Government officials at all levels foster attitudes that contribute to such persecution.
- Subpart E (pages 39 to 44) explains that Cameroon's criminalization of consensual same-sex sexual conduct is a colonial legacy steeped in European ethnocentric views of sexuality.

Part IV (pages 44 to 44) briefly summarizes the main findings and recommendations of the report.

4. This report offers many recommendations to address these ongoing human rights violations in Cameroon. Among other recommendations, the report concludes that the Government of Cameroon should:
 - a. Immediately repeal Article 347a of the Penal Code and decriminalize consensual sexual relations between adults of the same sex, consistent with regional and international human rights law.
 - b. Release all prisoners who are currently detained on the basis of actual or suspected sexual orientation or alleged violations of Article 347a.
 - c. Publicly condemn the murder of human rights defender and community health actor, Eric Ohena Lembembe.
 - d. Appoint and fund a task force, including members of civil society, to create a National Action Plan for the Elimination of Discrimination Against Sexual Minorities, with benchmark indicators for each component of the National Action Plan.
 - e. Fund and implement the above National Action Plan, with the collaboration of civil society organizations and other stakeholders.
 - f. Collaborate with civil society organizations and the media to design and implement a comprehensive public sensitization campaign to raise awareness of homophobia as a mainstream social issue and to change societal attitudes about sexual minorities.
 - g. Create and fund a working group, including representatives of organizations serving sexual minorities, to amend the national HIV/AIDS strategic plan to explicitly include comprehensive programming for men who have sex with men and women who have sex with women.
 - h. Allow organizations working on issues relating to sexuality, gender, sexual orientation, and gender identity to be certified as legally recognized non-profit organizations.
 - i. Mandate that all public health care workers receive training on sexual orientation and gender identity and the rights of LGBTI people, and collaborate with civil society organizations working on LGBTI rights to deliver that training.
 - j. Enact legislation to outlaw hate crimes, including crimes motivated by the victim's actual or perceived sexual orientation or gender identity.

- k. Issue a directive to government-owned radio and television stations to cease all programming that condemns or denigrates sexual minorities or that promotes discrimination on the basis of sexual orientation or gender identity.
- l. Require police officers to create and maintain logbooks including every arrest by date and time including the legal and factual basis for each arrest, and make these logbooks available for inspection by an independent civilian review board to take and investigate complaints about law enforcement use of arbitrary detention and torture and cruel, inhuman, and degrading treatment. Audit these logbooks to identify individuals who have been arrested on the basis of actual or perceived sexual orientation or consensual same-sex sexual conduct and ensure the prompt release of those individuals.
- m. Establish an independent civilian review board to take and investigate complaints about law enforcement's use of arbitrary detention and torture and cruel, inhuman, and degrading treatment.
- n. Direct law enforcement to immediately cease all harassment and abuse of people suspected to be sexual minorities.
- o. Remove any officer from public patrol duties who has engaged in harassment or abuse of actual or perceived sexual minorities until such time as the officer receives comprehensive training about the human rights of sexual minorities.

I. Cameroon's Regional, International, and Domestic Human Rights Commitments Mandate Equality, Freedom, Security, and Respect for the Dignity of Sexual Minorities.

- 5. Cameroon's human rights treaty obligations and domestic law require that the Government treat sexual minorities with dignity and respect. These obligations arise out of the African Charter on Human and Peoples' Rights, the African Charter on the Rights and Welfare of the Child, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, the Convention Against Torture, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Constitution of Cameroon, and the Penal Code of Cameroon.

African Charter on Human and Peoples' Rights

- 6. Under the African Charter, all people, regardless of sexual orientation, are entitled to enjoy the protections provided by the Charter, including the right to life, security of person, privacy, dignity, the right to be free from discrimination, and the right to be free from torture, and arbitrary arrest and detention. It is the duty of member States to promote and protect the human rights and fundamental freedoms of their people.³
- 7. The African Commission has recognized:

“Together with equality before the law and equal protection of the law, **the principle of non-discrimination provided under Article 2** of the Charter provides the foundation for the enjoyment of all human rights [E]quality and non-discrimination ‘are central to the human rights movement.’ The aim of this principle **is to ensure equality of treatment for individuals irrespective of** nationality, sex, racial or ethnic origin, political opinion, religion or belief, disability, age or **sexual orientation.**”⁴
- 8. In concluding its 3rd Periodic Report to the African Commission on Human and Peoples' Rights, the Government of Cameroon advised the Commission: “Cameroon is resolutely engaged in the protection and promotion of fundamental human rights in general and is particularly determined

³ African Charter on Human and Peoples' Rights, Adopted June 27, 1981; Entered into Force October 21, 1986.

⁴ *Zimbabwe Human Rights NGO Forum v. Zimbabwe*, AHR LR, para. 169 (ACHPR 2006) (emphasis added).

to implement the relevant provisions of the African Charter on Human and Peoples Rights.”⁵ Yet the Report altogether ignores the rampant discrimination, violence, abuse, and other threats to the security of perceived and actual sexual minorities in Cameroon and the human rights defenders who advocate on their behalf.

9. Article 60 of the African Charter directs the Commission to look to international laws and charters for inspiration on human and peoples’ rights. Cameroon has signed and ratified the International Covenant on Civil and Political Rights (“ICCPR”),⁶ the International Covenant on Economic, Social and Cultural Rights (“ICESCR”),⁷ the Convention on the Elimination of All Forms of Discrimination Against Women (“CEDAW”),⁸ the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“CAT”),⁹ Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa,¹⁰ and the Convention on the Rights of the Child (“CRC”).¹¹ Like the Charter, these instruments commit the Government of Cameroon to guarantee the equality of all citizens, and to protect and promote their fundamental right to life, freedom, security, respect, and dignity.¹²

African Charter on the Rights and Welfare of the Child

10. Under the African Charter on the Rights and Welfare of the Child, the State must guarantee “legal protection in conditions of freedom, dignity and security”¹³ to the child regardless of “race, ethnic group, color, sex, language, religion, political or other opinion, national and social origin, fortune, birth or other status.”¹⁴ The State must ensure that children are not “subjected to torture, inhuman or degrading treatment or punishment.”¹⁵

Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa

11. The African Protocol on Women’s Rights was ratified by Cameroon “to ensure that the rights of women are promoted, realized and protected in order to enable them to enjoy fully all their human rights”¹⁶ under national law and other international treaties. Article 4(1) recognizes an obligation to take measures against “harmful practices or all other forms of violence, abuse and intolerance”¹⁷ toward women and to “punish the perpetrators of violence against women and implement programmes for the rehabilitation of women victims.”¹⁸ State Parties must take all

⁵ 3rd Periodic Report of Cameroon within the Framework of the African Charter on Human and Peoples’ Rights, Section 638.

⁶ Ratified on 27 June 1984.

⁷ Ratified on 27 June 1984.

⁸ Signed on 6 June 1983 and ratified on 23 August 1994.

⁹ Ratified on 19 December 1986.

¹⁰ The Protocol to the African Charter on Human and Peoples’ Rights relating to the Rights of Women in Africa adopted in Maputo on 11 July 2003, was ratified by decree 28 May 2009 and the instrument of ratification was deposited in January 2013.

¹¹ Signed on 25 September 1990 and ratified on 11 January 1993.

¹² See 3rd Periodic Report of Cameroon within the Framework of the African Charter on Human and Peoples’ Rights, Sections 84, 563, 566, 630, 636, 638, and 644.

¹³ African Charter on the Rights and Welfare of the Child, Preamble, entered into force 29 Nov. 1999 [hereinafter Charter on the Rights of the Child].

¹⁴ *Id.*, art. 3.

¹⁵ *Id.*, art. 16.

¹⁶ Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa [hereinafter African Protocol on Women’s Rights], Preamble.

¹⁷ *Id.*, Article 5(d).

¹⁸ *Id.*, Article 4(2)(e).

measures necessary to prevent sexual abuse of women¹⁹ and to preserve female sexual and reproductive health.²⁰

Convention Against Torture

12. The Convention Against Torture prohibits torture “for any reason based on discrimination of any kind.”²¹ The Committee Against Torture in General Comment 2 emphasized that “[t]he protection of certain minority or marginalized individuals or populations especially at risk of torture is a part of the obligation to prevent torture or ill-treatment,” and that “States parties must ensure that, insofar as the obligations arising under the Convention are concerned, their laws are in practice applied to all persons, regardless of” membership in various protected groups, including “sexual orientation” and “transgender identity.”²²

International Covenant on Civil and Political Rights

13. The International Covenant on Civil and Political Rights (ICCPR) recognizes the right to privacy and to be free from discrimination. The U.N. Human Rights Committee has acknowledged that criminalizing consensual same-sex conduct violates the ICCPR.²³ Article 6 of the ICCPR establishes that every human being has an inherent right to life, of which they cannot be arbitrarily deprived.²⁴ Article 7 prohibits all forms of torture or cruel, inhuman, or degrading treatment or punishment. Article 9 recognizes the rights to liberty and security of self, to not be subjected to arbitrary arrest or detention, and to not be deprived of liberty without an adherence to procedure. Under Article 14, Cameroon is obligated to provide all individuals with equal rights to appear before a competent and impartial tribunal, and to have a fair public hearing.

International Covenant on Economic, Social and Cultural Rights

14. Under Article 2.2 of the International Covenant on Economic, Social and Cultural Rights, States parties “undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” In General Comment 14, the Committee on Economic, Social and Cultural Rights emphasized that the Covenant “proscribes any discrimination in access to” Covenant rights on the grounds of the classes identified in article 2.2, as well as “on the grounds of . . . physical or mental disability, health status (including HIV/AIDS), sexual orientation and civil, political, social or other status.”²⁵

Convention on the Elimination of All Forms of Discrimination against Women

15. Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women “condemn[s] discrimination against women in all its forms.”²⁶ In a General Recommendation, the Committee on the Elimination of Discrimination against Women has emphasized that “[t]he discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as . . . sexual orientation and gender identity. . . . States parties must legally

¹⁹ *Id.*, Article 4(2)(a).

²⁰ *Id.*, Article 14(1)(d).

²¹ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. res. 39/46, [annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984)], *entered into force* June 26, 1987 [hereinafter CAT], art. 1.1.

²² Committee against Torture, General Comment No. 2 (Jan 24, 2008), U.N. Doc. CAT/C/GC/2, para. 21.

²³ *Toonen v. Australia*, 50th Sess., Communication no. 488/1992, U.N. Doc. CCPR/C/40/D/488/1992, April 14, 1994, Sec. 8.7

²⁴ International Covenant on Civil and Political Rights, art. 6, adopted on 19 Dec. 1966 [hereinafter ICCPR].

²⁵ Committee on Economic, Social and Cultural Rights [hereinafter CESCR] General Comment No. 14 (Aug. 11, 2000), U.N. Doc. E/C.12/2000/4, para. 18. See also CESCR General Comment No. 15 (Jan. 20, 2003), U.N. Doc. E/C.12/2002/11, para. 13 (right to water); CESCR General Comment No. 18 (Nov. 24, 2005), U.N. Doc. E/C.12/GC/18, para. 12(b)(i) (right to work).

²⁶ CEDAW art. 2.

recognize such intersecting forms of discrimination and their compounded negative impact on the women concerned and prohibit them.”²⁷

Convention on the Rights of the Child

16. The Committee on the Rights of the Child in a General Comment has construed the Convention on the Rights of the Child’s prohibition on “discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status,”²⁸ also to “cover adolescents’ sexual orientation and health status (including HIV/AIDS and mental health).”²⁹

Domestic Law

17. The State of Cameroon assures its citizens equality and non-discrimination in its Constitution which includes and incorporates the Universal Declaration of Human Rights.³⁰ The Universal Declaration of Human Rights proclaims that “all human beings are born free and equal in dignity and rights.”
18. Article 45 of the Constitution of Cameroon emphasizes Cameroon’s membership in the international community, recognizing that “duly approved and ratified treaties and international agreements shall . . . override national laws.”³¹
19. Article 2 of the Cameroon Penal Code subjects the country’s criminal laws “to the rules of international law and to all treaties duly promulgated and published.”³²

II. The International Human Rights Community Continues to Urge the Government of Cameroon to Protect and Promote the Rights of Sexual Minorities, but the Government of Cameroon Consistently Rejects Its Obligations.

20. Article 347a (also called “Article 347bis”) of Cameroon’s Penal Code outlaws consensual sexual relations between same-sex adults and authorizes punishment by imprisonment from six months to five years and a fine of 20,000 to 200,000 CFA.³³ Since 2005, violence, arbitrary arrests, and other harassment based on perceived or real sexual orientation has increased in Cameroon.³⁴ Cameroonians who do not fit gender stereotypes, people who are perceived as sexual minorities, and members of the LGBTI community face potential violence and death on a daily basis. Victims are often afraid to seek protection from law enforcement because the police and gendarmes also participate in the abuse, frequently arresting the victims and then subjecting them to degrading and cruel treatment.³⁵

The African Commission on Human and Peoples’ Rights

21. In its 2005 Concluding Observations and Recommendations to the Government of Cameroon, the African Commission on Human and Peoples’ Rights noted with concern that “[t]he situation

²⁷ Committee on the Elimination of Discrimination against Women, General Recommendation No. 28 (Dec. 16, 2010), U.N. Doc. CEDAW/C/GC/28, para. 18.

²⁸ Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), *entered into force* Sept. 2 1990, [hereinafter CRC], art. 2.1.

²⁹ Committee on the Rights of the Child, General Comment No. 4 (July 1, 2003), U.N. Doc. CRC/GC/2003/4, para. 6.

³⁰ Constitution of the Republic of Cameroon, Law No. 96-06 of 18 January 1996 to amend the Constitution of 2 June 1972.

³¹ *Id.*

³² Penal Code of Cameroon, Art. 2.

³³ Article 347a was enacted by presidential ordinance in 1972 without the required review by the National Assembly. Consequently, the law violates the Constitution for that reason alone. Law No. 96-06 of 18 January 1986 to amend the Constitution of 2 June 1972, Constitution of the Republic of Cameroon, Art. 26.

³⁴ Amnesty International, Cameroon: Make Human Rights a Reality, January 2013 Index: AFR17/001/2013 at 26.

³⁵ *Ibid.*

of vulnerable groups in general and in particular that of . . . human rights defenders remain precarious . . . [and] [t]here is an upsurge of intolerance against sexual minorities” in Cameroon.³⁶

The Government of Cameroon’s Response

22. The Government of Cameroon’s 3rd Periodic Report ignores the issue of sexual minorities altogether. But its 2nd Periodic Report, submitted in 2010, expresses disregard for the African Commission’s concerns:

92. Under Article 2 and 3 of the African Charter on Human and Peoples’ Rights, every person is entitled to enjoy their rights and freedoms and equal treatment before the law. This is a fundamental law provided for in the Constitution. . . .

93. However, the issue of homosexuality which would have been the most topical matter at national level may be raised. This issue which affects human rights seems to be linked to a certain demand of a right to a different way of life which goes beyond events that have brought to light, this phenomenon which has led to a series of arrests and convictions of several people since 2005. It will not be out of place to take a second look at the rule of law in Cameroon with regard to this sensitive issue.

94. From the point of view of the Cameroonian legal system, the condemnation of homosexuality is not in contravention of the provisions of Article 12 of the Universal Declaration of Human Rights (UDHR) and those of Article 26 of the International Covenant on Civil and Political Rights (ICCPR) in the sense that homosexuals are not denied the enjoyment of any right or benefit on account of their presumed sexual preference. Legal action is taken against them for engaging in practices that are in contravention of both the existing legislation as well as the things that the democratic Cameroonian society of today still considers as good morals.

95. Furthermore, the position of Cameroonian law can lean on the relevant provisions of Articles 29(2) of the UDHR and 29(7) of the African Charter on Human and Peoples’ Rights which constitute safety clauses that may be invoked by every democratic society depending on its moral particularities.

These provisions respectively:

- Agree that a State may restrict a right or freedom “in order to satisfy the just demands of morality, public order and the general well-being of a democratic society”;
- Require individuals “to ensure that, in his relations with society, positive African Cultural values are preserved and enhanced”

96. In the current state of African culture, homosexuality does not only appear to be an unaccepted value by the Cameroonian society but is also considered universally as a manifestation of moral decadence that should be fought.³⁷

23. Paragraphs 42 through 62 below demonstrate why the Government of Cameroon’s reliance on Article 29(2) of the UDHR and Article 29(7) of the African Charter is misplaced. Part III(E) of this report (pages 39 to 44) refutes the Government of Cameroon’s assertion that “African culture” rejects homosexuality and allows persecution of sexual minorities, explaining that Cameroon’s criminalization of consensual same-sex sexual conduct is a colonial legacy steeped in European ethnocentric views of sexuality.

³⁶ African Commission on Human and Peoples’ Rights, Concluding Observations and Recommendations on the Periodic Report of the Republic Cameroon, para. 14, 11-25 May 2005).

³⁷ Second Periodic Report on Cameroon Within the Framework of the African Charter on Human and Peoples’ Rights, paras. 92-96, submitted 12 May 2010.

The Universal Periodic Review

24. During Cameroon’s first two Universal Periodic Reviews—most recently in May of this year—many countries recommended that the Government of Cameroon decriminalize consensual same-sex sexual conduct and take other steps to protect sexual minorities and combat homophobia.³⁸

The First Universal Periodic Review: 2009

25. During Cameroon’s first Universal Periodic Review in 2009, six countries—three from Latin America, two from Europe, and one from North America—recommended that Cameroon abolish Article 347a and take other measures to protect the rights of sexual minorities.³⁹

The Government of Cameroon’s Response

26. The Government of Cameroon rejected each of these recommendations: “This is an extremely sensitive issue in the cultural environment and whereas Cameroon understands the wishes of the international community, it must balance them with this sensitivity.”⁴⁰

The Second Universal Periodic Review: 2013

27. In February 2013, the Government of Cameroon submitted its second national report to the working group on the UPR.⁴¹ The report did not include a single mention of people who are LGBTI.⁴² During the interactive dialogue on May 1, 2013, fourteen countries—three from Latin America, two from North America, eight from Europe, and one from Oceania—made a total of sixteen recommendations that Cameroon abolish Article 347a and take other measures to protect the rights of sexual minorities and human rights defenders who work on their behalf.⁴³ The Government of Cameroon has not yet stated whether it accepts any of these recommendations.

The Government of Cameroon’s Response

28. During the interactive dialogue, the delegation from the Government of Cameroon offered two responses to these recommendations:

Replying to questions concerning homosexuality, the delegation of Cameroon noted that Cameroon society did not yet accept homosexuality as normal behavior and that attitudes would change over time. The delegation stressed that homosexuals were not persecuted and that the few incidents that had been brought to the attention of the international community had occurred in public places. The phenomenon, which was quantitatively negligible, should therefore be put into perspective. Furthermore, article 29 of the Universal Declaration of Human Rights provided that a State could limit a freedom for the purpose of “meeting the just requirements of morality, public order and the general welfare in a democratic society.”⁴⁴

³⁸ Reports of Working Group on the Universal Periodic Review: Cameroon, U.N. Doc. A/HRC/11/21 (12 October 2009); A/HRC/24/15 (5 July 2013).

³⁹ Report of the Working Group on the Universal Periodic Review, Cameroon, U.N. Doc. A/HRC/11/21, paras. 20, 22(b), 25(c), 28(c), 32(c), 46(b) (12 Oct. 2009) (recommendations of Argentina, Brazil, Canada, France, Luxembourg, and Mexico).

⁴⁰ *Id.*, paras. 37, 78

⁴¹ A/HRC/WG.6/16/CMR/1, 11 February 2013.

⁴² A/HRC/WG.6/16/CMR/1, 11 February 2013.

⁴³ A/HRC/24/15 paras. 42, 43, 54, 107, 131.32-38, 131.84-88, 131.107-110, 5 July 2013 (Argentina, Australia, Belgium, Canada, the Czech Republic, France, Germany, Mexico, Montenegro, the Netherlands, Spain, the United Kingdom, the United States, and Uruguay made recommendations).

⁴⁴ A/HRC/24/15 para. 57, 5 July 2013.

With regard to the debate on homosexuality, the delegation recalled that all societies evolved, that Cameroon should be allowed the opportunity to continue on its path and that attitudes would change accordingly.⁴⁵

29. Paragraphs 42 through 62 below demonstrate why the Government of Cameroon's reliance on Article 29 of the UDHR is misplaced. Part III(E) of this report (pages 39 to 44) refutes the Government of Cameroon's assertion that "African culture" rejects homosexuality and allows persecution of sexual minorities, explaining that Cameroon's criminalization of consensual same-sex sexual conduct is a colonial legacy steeped in European ethnocentric views of sexuality.

The U.N. Human Rights Committee

30. Cameroon's fourth periodic report to the Human Rights Committee, published in May 2009, made no reference to the rights of sexual minorities.⁴⁶
31. The Committee's List of Issues posed the following questions: "9. Please explain the inconsistency between the provisions of the Penal Code criminalizing sexual relations between consenting adults of the same sex and the obligations of the State party under articles 2, 17, and 26 of the Covenant. What measures have been taken by the State party to prevent violence against persons because of their sexual orientation?"⁴⁷
32. In July 2010, during the interactive dialogue, Committee members reminded the Government of Cameroon's delegation that Cameroon's criminalization of consensual sexual relations between adults in private violates the ICCPR, the Universal Declaration of Human Rights, and other treaty obligations.⁴⁸ In particular, they expressed concern about people being arrested, detained, and abused on the mere suspicion of homosexuality and about the potential for false accusations and complaints.⁴⁹
33. In its Concluding Observations, the Committee continued to express deep concern about Article 347a and the inhuman treatment of persons detained on charges of violating that law:

12. The Committee remains deeply concerned about the criminalization of consensual sexual acts between adults of the same sex, punishable with imprisonment from six months to five years under article 347 (bis) of the Penal Code. As the Committee and other international human rights mechanisms have underlined, such criminalization violates the rights to privacy and freedom from discrimination enshrined in the Covenant. The information provided by the State party did not allay the Committee's concern about arbitrariness in the implementation of article 347 (bis), also observed by the United Nations Working Group on Arbitrary Detention in its Opinion No. 22/2006 (Cameroon) (A/HRC/4/40/Add.1),^[50] and about reported cases of inhumane and degrading treatment of persons detained on charges of having sexual relations with a person of the same sex. The Committee is also concerned that the criminalization of consensual sexual acts between adults of the same sex impedes the implementation of effective education programmes in respect of HIV/AIDS prevention. (arts. 2, 7, 9, 17 and 26)

⁴⁵ A/HRC/24/15 para. 129, 5 July 2013.

⁴⁶ Human Rights Committee, Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant, Fourth Periodic Reports of States Parties, Cameroon, U.N. Doc. CCPR/C/CMR/4 (11 May 2009).

⁴⁷ Human Rights Committee, List of issues to be taken up in connection with the consideration of the fourth periodic report of Cameroon (CCPR/C/CMR/4), para. 9 (2 Nov. 2009).

⁴⁸ Human Rights Committee, Ninety-ninth session, Summary record of the 2725th meeting, 19 August 2010 http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fSR.2725&Lang=en.

⁴⁹ Human Rights Committee, Ninety-ninth session, Summary record of the 2725th meeting, 19 August 2010 http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fSR.2725&Lang=en.

⁵⁰ In 2006, the UN working Group on Arbitrary Detentions (WGAD) urged Cameroon to revise its penal code criminalizing same sex relations to comply with international legal standards.

The State party should take immediate steps towards decriminalizing consensual sexual acts between adults of the same sex, in order to bring its law in to conformity with the Covenant. The State party should also take appropriate measures to address social prejudice and stigmatization of homosexuality and should clearly demonstrate that it does not tolerate any form of harassment, discrimination and violence against individuals because of their sexual orientation. Public health programmes to combat HIV/AIDS should have a universal reach and ensure universal access to HIV/AIDS prevention, treatment, care and support.⁵¹

34. In its November 2011 List of Issues prior to Cameroon's upcoming reporting obligations, the Committee asked the Government of Cameroon to address the following issues regarding sexual minorities:

8. With regard to one of the recommendations in the Committee's previous concluding observations (para. 12), please provide information on the status of homosexuals in Cameroon. Please indicate the measures taken to date in order to decriminalize consensual sexual relations between adults of the same sex and to bring the Penal Code into line with the Covenant. Please provide statistics for the period 2010–2013, including statistics broken down by sex, age and ethnicity, on the number of persons arrested under article 347 (a) of the Penal Code. Please also indicate the progress of the proceedings in the Roger Jean-Claud Mbede case. Please list the measures taken by the State party to prevent acts of violence against individuals on account of their real or supposed sexual orientation. Lastly, please provide information on the measures taken by the State party to protect homosexual prisoners from discrimination, sexual abuse and physical violence.⁵²

The Government of Cameroon has not yet filed its response to this List of Issues. The response was due July 30, 2013.

The Government of Cameroon's Responses

35. In its written response to Question 9 of the Committee's 2009 List of Issues, with respect to criminalization of same-sex sexual conduct and violence directed toward sexual minorities, the Government of Cameroon stated:

79. The criminalization of homosexuality is not, from the perspective of Cameroonian law, contrary to the provisions of the Covenant in that it does not deny to gay people the benefit of a right or service because of their alleged sexual orientation.

80. These practices are as contrary to the law, as they are to what the Cameroonian democratic society still considers good morals.

81. Furthermore, the position of the Cameroonian law finds support in the relevant provisions of Articles 29(2) of the Universal Declaration of Human Rights and Article 29(7) of the African Charter on Human and Peoples' Rights, which comprise safeguard clauses invoked by each democratic society based on its specific moral characteristics.

82. These respective provisions:

- recognize that a State may limit a right or freedom “[to] meet[] the just requirements of morality, public order and the general welfare in a democratic society”
- require the individual to “preserve and strengthen positive African cultural values in his relations with other members of the society”

⁵¹ CCPR/C/CMR/CO/4, para. 12 (August 2010).

⁵² Human Rights Committee, List of issues prior to the submission of the fifth periodic report of Cameroon, CCPR/C/CMR/Q/5 29 November 2011.

83. In the current state of African culture, homosexuality does not appear to be a value accepted by Cameroonian society and is overall seen as immoral.⁵³

The response ignored the Committee's question, "What measures have been taken by the State party to prevent violence against persons because of their sexual orientation?"

36. During the interactive dialogue, a member of the Cameroonian delegation replied that homosexuality was contrary to the customs and values of Cameroonian society and it could not be decriminalized at present.⁵⁴
37. Paragraphs 42 through 62 below demonstrate why the Government of Cameroon's reliance on Article 29(2) of the UDHR and Article 29(7) of the African Charter is misplaced. Part III(E) of this report (pages 39 to 44) refutes the Government of Cameroon's assertion that "African culture" rejects homosexuality and allows persecution of sexual minorities, explaining that Cameroon's criminalization of consensual same-sex sexual conduct is a colonial legacy steeped in European ethnocentric views of sexuality.

Other United Nations Actions

38. In a March 2011 resolution, the U.N. General Assembly urged all States:

To ensure the effective protection of the right to life of all persons under their jurisdiction, to investigate promptly and thoroughly all killings, including those targeted at specific groups of persons, such as . . . killings of persons . . . because of their sexual orientation.⁵⁵

39. On June 15, 2011, by a vote of 23-19,⁵⁶ the U.N. Human Rights Council adopted a resolution presented by South Africa relating to sexual orientation and gender identity.⁵⁷ The Council expressed "grave concern at acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation [a]nd gender identity."⁵⁸ The Council directed the High Commissioner to commission a study "to document discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity . . . and how international human rights law can be used to end violence and related human rights violations based on sexual orientation and gender identity."⁵⁹ The Council further decided to convene a panel discussion informed by that study "and to have constructive, informed and transparent dialogue" on those issues.⁶⁰
40. The U.N. High Commissioner for Human Rights presented the results of this study in a November 2011 report to the U.N. Human Rights Council. The report summarized the conclusions of U.N. treaty bodies and special mechanisms on the topic of criminalization of

⁵³ Comité des droits de l'homme, Réponses du gouvernement du Cameroun à la liste des points à traiter (CCPR/C/CMR/Q/4) à l'occasion de l'examen du quatrième rapport périodique du Cameroun (CCPR/C/CMR/4), U.N. Doc. CCPR/C/CMR/Q/4/Add.1, paras. 79-83 (3 May 2010); see also Amnesty International, Cameroon: Make Human Rights a Reality, January 2013 Index: AFR17/001/2013 at 27 (Cameroon's Ministry of Justice insists that criminalizing consensual sexual acts between adults of the same sex is "not contrary to duly ratified international instruments that guarantee individual freedoms, namely, Article 12 of the Universal Declaration of Human Rights and the provisions of Article 26 of the International Covenant on Civil and Political Rights, in the sense that, homosexuals are not denied the enjoyment of a right or service because of their presumed sexual orientation.").

⁵⁴ Human Rights Committee, Ninety-ninth session, Summary record of the 2725th meeting, 19 August 2010 http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fSR.2725&Lang=en.

⁵⁵ U.N. General Assembly Resolution 65/208, Extrajudicial, summary or arbitrary executions, U.N. Doc. A/RES/65/208, para. 6(b), Mar. 30, 2011.

⁵⁶ Frank Jordans, *U.N. Gay Rights Protection Resolution Passes, Hailed As 'Historic Moment'*, HUFFINGTON POST, June 17, 2011, http://www.huffingtonpost.com/2011/06/17/un-gay-rights-protection-resolution-passes-_n_879032.html (last visited Dec. 7, 2011).

⁵⁷ Human Rights, Sexual Orientation and Gender Identity, U.N. Doc. A/HRC/17/L.9/Rev. 1 (June 15, 2011).

⁵⁸ *Ibid.*

⁵⁹ *Id.*, para. 1.

⁶⁰ *Id.*, para. 2.

same-sex sexual relations and discrimination on the basis of sexual orientation and gender identity:

[T]he Human Rights Committee has held that laws used to criminalize private, adult, consensual same-sex sexual relations violate rights to privacy and to non-discrimination. The Committee has rejected the argument that criminalization may be justified as “reasonable” on grounds of protection of public health or morals, noting that the use of criminal law in such circumstances is neither necessary nor proportionate. In their concluding observations, the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child have urged States to reform such laws and, where relevant, have welcomed their repeal. The Working Group on Arbitrary Detention has held that detaining someone on the basis of sexual orientation constitutes arbitrary detention in breach of article 9 of the International Covenant on Civil and Political Rights.⁶¹

The right to be free from discrimination is included in the Universal Declaration of Human Rights (art. 2) and core international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights (art. 2) and the Convention on the Rights of the Child (art. 2). Article 26 of the International Covenant on Civil and Political Rights guarantees equality before the law, requiring States to prohibit discrimination.⁶²

In their general comments, concluding observations and views on communications, human rights treaty bodies have confirmed that States have an obligation to protect everyone from discrimination on grounds of sexual orientation or gender identity. The fact that someone is lesbian, gay, bisexual or transgender does not limit their entitlement to enjoy the full range of human rights.⁶³

41. The U.N. High Commissioner’s report drew on examples from Cameroon of violations of LGBTI rights. For example, the Working Group on Arbitrary Detention held that detaining someone on the basis of sexual orientation constitutes arbitrary detention in breach of article 9 in a case involving an LGBTI detainee in Cameroon.⁶⁴ The report quoted the African Commission’s 2005 concluding observations noting “an upsurge of intolerance against sexual minorities” in Cameroon as evidence of “a pattern of targeted violence against people who are LGBTI.”⁶⁵ And in observing that “homophobic, sexist and transphobic practices and attitudes on the part of health-care institutions and personnel may . . . deter LGBT persons from seeking services, which in turn has a negative impact on efforts to tackle HIV/AIDS and other health concerns,” the report cited the Human Rights Committee’s concluding observations on Cameroon.⁶⁶

The Government of Cameroon’s Repeated Reliance on Article 29(7) of the African Charter and Article 29(2) of the Universal Declaration Is Misguided.

The African Charter

42. The African Charter consistently uses all-inclusive language to describe the people who benefit from the rights and privileges in the Charter, and expressly allows for no distinctions. Read in

⁶¹ U.N. Human Rights Council, Report of the United Nations High Commissioner for Human Rights, Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, U.N. Doc. A/HRC/19/41, para. 14, Nov. 17, 2011.

⁶² *Id.*, para. 15.

⁶³ *Id.*, para. 16.

⁶⁴ *Id.*, para. 14 & n. 17.

⁶⁵ *Id.*, para. 26.

⁶⁶ *Id.*, para. 56.

this context, Article 29 cannot justify discrimination against the LGBTI community in Cameroon.

43. Article 29(7) states that the individual has the duty “[t]o preserve and strengthen positive African Cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and, in general, to contribute to the promotion of the moral well being of society.”
44. Article 29(7)’s requirement that each person contribute to “the moral well being of society” is not an “escape clause” to support oppression. The Government of Cameroon attempts to justify denying LGBTI persons the rights identified elsewhere in the African Charter by pointing to the individual’s duty “to contribute to the promotion of the moral well being of society.” The term “moral well being” is vague, and without context could be used to support nearly any form of oppression, including racial apartheid and harmful traditional practices.⁶⁷ Read in context, “moral well being” must not be understood as allowing for an exception to the African Charter’s otherwise all-inclusive scope.
45. Article 29(7) calls for tolerance and dialogue; it cannot be used to justify criminalization, discrimination, or stigmatization. Article 29(7) commands that all members of society be tolerant of that which they do not understand or of that which they do not approve. Cameroonians must resort to “dialogue and consultation” rather than assault and criminalization in their interactions with the LGBTI community.
46. The Government of Cameroon’s reading of Article 29(7)’s requirements is inconsistent with other duties listed in Article 29. For example, Article 29(8) states that the individual has the duty to “contribute to the best of his abilities, at all times and at all levels, to the promotion of African unity.” Criminalization and discrimination against individuals based on their sexual orientation or gender identity undermines African unity by singling these individuals out for detention and abuse based on their private conduct. Moreover, stigmatization impairs the ability of LGBTI people in Cameroon to contribute to African unity. And these violations of human rights are particularly at odds with *African* unity, in light of the values of tolerance, dialogue, and consultation expressed in Article 29(7) and indeed throughout the African Charter.
47. The Government of Cameroon’s reading of Article 29(7) is inconsistent with the rest of the African Charter. The overarching theme of the Charter is tolerance and complete inclusion—with no exceptions. The Preamble recognizes that in order to achieve total liberation of Africa, countries must “undertake to eliminate . . . all forms of discrimination, particularly those based on race, ethnic group, color, sex, language, religion or political opinions.” The text of the Charter makes no allowance for any form of discrimination—including discrimination against people who are LGBTI.
48. The Charter’s enumerated list of prohibited grounds for discrimination is expressly non-exhaustive. Article 2 states that “[e]very individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter *without distinction of any kind* such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or *other status*.”⁶⁸ The Charter therefore, by its very construction, acknowledges that other forms of discrimination aside from those enumerated are also prohibited. This acknowledgement is evident through the inclusion of the phrase “. . . or other status” at the end of Article 2, as well as the qualifier “such as” before the list. If the enumerated list in Article 2 were the only prohibited forms of discrimination, the inclusion of “. . . or other status” would be pointless, and “such as” would be misplaced.

⁶⁷ As described below, similar justifications were (and are) commonly used to justify discrimination against women.

⁶⁸ African Charter on Human and Peoples’ Rights, art. 2 (emphasis added).

49. The rights to equality and non-discrimination in Article 2 are foundational to the other rights in the Charter. The African Commission emphasizes that the “right to equality” contained in Article 2 “is important [because] it affects the capacity of a person to enjoy many other rights.”⁶⁹ This right to equality is indivisible from the rest of the Charter.
50. The Charter consistently describes rights as belonging to all people, without limitation. Articles 2, 3, 4, 5, 9, 11, 12, 13, 16, 19, 20, 22, 24, 27, and 28 all use the language “every individual,” “every human being,” “every citizen,” or “all peoples,” when describing rights, freedoms, equality before the law, respect, and dignity. None of these articles allows for any exceptions. The most fundamental principle of the Charter is full inclusion, and Article 29 must be read in this context.
51. Further, as discussed in greater detail in Part III(E) (pages 39 to 44), the Government of Cameroon’s assertion that “African culture” rejects homosexuality and allows persecution of sexual minorities is misguided. Many traditional African cultures accepted consensual same-sex conduct. Colonial authorities imposed laws criminalizing such conduct on African peoples, and these laws are rooted in ethnocentric colonial notions of sexuality. The Preamble to the African Protocol calls on member states to eliminate these vestiges of colonialism.

The Universal Declaration

52. The Universal Declaration of Human Rights (UDHR) consistently uses all-inclusive language to describe the people who benefit from the rights and privileges in the Declaration, and it expressly allows for no distinctions. Read in this context, Article 29 of the UDHR cannot be used to justify discrimination against people who are LGBTI.
53. Article 29(2) of the UDHR states that “[i]n the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.”
54. The Government of Cameroon asserts that punishing homosexuality is necessary for “morality, public order and the general welfare.”
55. Article 29(2) creates a strong presumption against limitations on UDHR rights. It permits only those limitations that are “solely for the purpose of securing due recognition and respect for the rights and freedoms of others.” To meet that burden, the Government of Cameroon must show that criminalizing private, consensual same-sex sexual conduct is *necessary* to “secur[e] due recognition and respect for the rights and freedoms of others.” Evident from the text, only that which is necessary is permissible under the UDHR.
56. The Government of Cameroon cannot show that allowing consensual same-sex sexual conduct to go unpunished—free from torture, arbitrary detention, and harassment—would undermine “the rights and freedoms of others” in any way. Heterosexual Cameroonians will still be free to marry, have children, and even peacefully express their views against homosexuality if the Government of Cameroon stops arresting and imprisoning LGBTI persons.
57. Article 29(2) does not authorize limitations on UDHR rights simply by incantation of the need to promote “morality.” Limitations are allowed only if they are “determined by law” either to be necessary to secure the rights of others, as discussed above, or if they are “for the purpose . . . of meeting the just requirements of morality, public order and the general welfare in a democratic society.” The term “morality” is vague, and without context could be claimed to support nearly any form of oppression. Put in context, however, “morality” does not allow for a “homosexual exception” to the otherwise inclusive language of the UDHR. First, the “requirements of morality” must be “just.” Imposing criminal penalties for private consensual conduct between

⁶⁹ *Legal Resources Foundation v. Zambia* (2001) AHRLR 84 (ACHPR 2001).

adults is presumptively unjust. Second, Article 29 qualifies “morality” by placing it in context with “public order and the general welfare in a democratic society.” Democratic societies must tolerate a variety of conflicting opinions, perspectives, and ways of life. In the least, democracies must refrain from using criminal law to punish unpopular social groups. The “public order and the general welfare in a democratic society” are not served by arresting those with which the majority disagrees. Third, criminalization causes physical harm to LGBTI people in Cameroon, who have HIV rates significantly higher than the general population.⁷⁰ Criminalization undermines public order and the general welfare.⁷¹

58. Other language in the UDHR confirms that Article 29(2) is not a “safety valve” to justify persecution of people who are LGBTI. Article 30 clarifies that nothing in the UDHR, including Article 29, is to be “interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.”
59. The rights and freedoms set forth in the UDHR are all-inclusive. The Preamble affirms the “inherent dignity” and “equal and inalienable rights of *all members* of the human family.”⁷² It expresses that the U.N. puts faith “in the dignity and worth of the human person” and encourages “social progress and better standard of life in larger freedom.”⁷³ The aim of the Charter, from the outset, is “larger freedom” for “all members of the human family,” achievable only through “social progress.”⁷⁴ Every Article in the UDHR uses all-inclusive terms—“everyone”; “no one”—to describe the scope of the rights and freedoms in the Declaration. Article 29(2) must be read within this framework, particularly because Article 30 demands it.
60. The UDHR’s prohibition on discrimination does not allow exceptions. Article 2 demands that “[e]veryone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex . . . religion, political or other opinion . . . birth or other status.” Sexual orientation is included, whether within the distinction of sex or *other status*. “[W]ithout distinction of any kind” allows for no exceptions.
61. Popular opinion and cultural traditions are no basis for carving out discriminatory exceptions to the UDHR. If a history of discrimination was all that was necessary to justify continued discrimination, all forms of discrimination would still be permissible under the UDHR, rendering the entire document meaningless. Popular social attitudes cannot justify discriminatory practices. For example, in the field of women’s rights, the U.N. Human Rights Committee acknowledges the deep-seated traditional, historical, cultural, and religious beliefs leading to the subordination of women, but expressly rejects these as justification for “violations of women’s right to equality before the law and to equal enjoyment of all Covenant rights.”⁷⁵ The U.N. Secretary-General recently rejected discrimination based on sexual orientation and gender identity, stating that, as with other historical causes for discrimination, “[w]here there is a tension between cultural attitudes and universal human rights, rights must carry the day.”⁷⁶

⁷⁰ UN Human Rights Council, Nineteenth Session, Report of the UN High Commissioner for Human Rights: discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity (http://www2.ohchr.org/english/bodies/hrcouncil/docs/19session/A.HRC.19.41_English.pdf), para. 56, 65 (Even “[r]estrictions on information on sexual orientation, including those allegedly intended to protect ‘public decency’, can have a deleterious impact on public health efforts, including in relations to transmission of the HIV virus.”).

⁷¹ *Ibid.*

⁷² Universal Declaration of Human Rights, Preamble (emphasis added).

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ Human Rights Committee, General Comment No. 28, para. 5

⁷⁶ UN Human Rights Council, Nineteenth Session, Report of the UN High Commissioner for Human Rights: discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity (http://www2.ohchr.org/english/bodies/hrcouncil/docs/19session/A.HRC.19.41_English.pdf) p3

62. As discussed above, the two treaty bodies that monitor implementation of the UDHR, as operationalized by the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, have emphasized that the non-discrimination provisions in those treaties apply to discrimination on account of sexual orientation.

III. The Government of Cameroon Has Rejected Its Human Rights Obligations.

63. The Government of Cameroon has failed to uphold its human rights obligations with respect to sexual minorities. First, human rights defenders who serve and support people who are LGBTI are increasingly vulnerable to attacks and face growing insecurity. The Government of Cameroon has played an active role in creating this climate of fear. Second, enforcement of Article 347a violates prohibitions on arbitrary arrest. People arrested under Article 347a face torture and other forms of ill-treatment at the hands of law enforcement and prison officials. Article 347a violates individuals' rights to privacy and security, and is a form of discrimination based on sexual orientation. Third, the criminalization, discrimination, and stigmatization of same-sex sexual conduct undermine efforts to prevent and treat HIV/AIDS in Cameroon. Fourth, private acts of violence and harassment directed toward sexual minorities are widespread, and Government officials at all levels foster the societal attitudes that contribute to such violence and persecution. Fifth, Cameroon's criminalization of consensual same-sex conduct is a colonial legacy rooted in ethnocentric European views of sexuality and the purported immorality of African peoples. The Preamble to the African Charter, which calls on member states to eradicate colonialism and neo-colonialism, supports abolition of Article 347a.

A. The Government of Cameroon Actively Contributes to the Growing Vulnerability and Insecurity of Human Rights Defenders.

64. The Government of Cameroon actively contributes to the climate of intimidation directed at human rights defenders who serve and promote the rights of sexual minorities. Contrary to the Government of Cameroon's recent UPR assertions, the persecution of sexual minorities and human rights defenders who work on their behalf is neither quantitatively nor qualitatively "negligible."
65. The U.N. Office of the Commissioner for Human Rights recently noted with alarm the "general climate of fear among Cameroonian human rights defenders."⁷⁷ Human rights defenders advocating against homophobia and discrimination based on sexual orientation are acutely at risk.⁷⁸ At best, the Government of Cameroon responds to these dangers with inaction; Government and security officials in Cameroon tacitly condone attacks on organizations defending the rights of sexual minorities. At worst, the Government responds by forcing individuals to denounce organizations that promote LGBTI rights, by arresting activists themselves, and by letting perpetrators go free. The result of these Government actions is a climate of impunity for people attacking advocates of LGBTI rights and a climate of escalating fear for human rights defenders.

Police require televised denunciation of a group that serves people who are LGBTI

66. The Government of Cameroon plays an instrumental role in promoting the public campaign of intimidation directed at human rights defenders working on LGBTI issues. In February 2012, for example, law enforcement officials in Douala arrested a young man and accused him of homosexuality. Before they would release him, they forced him to denounce the organization Alternatives-Cameroon on television; Alternatives-Cameroon provides health care and other

⁷⁷ U.N. asks investigation in death of Cameroonian gay activist Lembembe, UPI.com, July 19, 2013, http://www.upi.com/Top_News/US/2013/07/19/UN-asks-investigation-in-death-of-Cameroonian-gay-activist-Lembembe/UPI-11721374267758/#ixzz2cWw5zpST.

⁷⁸ *Ibid.*

services regardless of sexual orientation or gender identity. The hostility that resulted from the incident and denunciation forced Alternatives to suspend services.⁷⁹

Mob violence goes unpunished; police arrest victims

67. On March 27, 2012, an anti-gay group called the Rally for Cameroonian Youth (Rassemblement de la Jeunesse Camerounaise) violently attacked a Yaoundé workshop on the rights of sexual minorities. Thirty people were attending the workshop, which a local official had authorized. Following the attack, government officials shut down the workshop and arrested the organizer.⁸⁰ Police took no action against the Rally for Cameroonian Youth.⁸¹
68. On May 19, 2012, a mob attacked a group of people celebrating International Day Against Homophobia in Yaoundé. Humanity First Cameroon and the Foundation for AIDS Cameroon (CAMFAIDS) Affirmative Action had organized the gathering. Mob members nearly beat to death almost two dozen people. The mob seized others, insulted them, stripped them of their clothes, and robbed them of money, mobile phones, jewelry, and identification papers. The organizers of the gathering did not call the police for fear of being arrested themselves. In similar situations, police have arrested the advocates for LGBTI rights rather than the gay-bashers.⁸²

Government remains silent as threats on human rights defenders and attacks on their offices escalate

69. The Government of Cameroon has turned a blind eye to escalating death threats targeting lawyers who represent clients who are accused of violating Article 347a and other human rights defenders. On February 13, 2013, for example, Human Rights Watch, in collaboration with organizations advocating for the human rights of LGBTI people, wrote an open letter to President of Cameroon Paul Biya urging the Government of Cameroon to take action against a series of death threats made to lawyers representing clients accused of homosexual conduct.⁸³ Despite the request, no one from the Government publicly condemned the threats, called for tolerance, or expressed any support for human rights defenders. In early July 2013, prominent human rights defender Eric Ohena Lembembe said:

There is no doubt: anti-gay thugs are targeting those who support equal rights on the basis of sexual orientation and gender identity. Unfortunately, a climate of hatred and bigotry in Cameroon, which extends to high levels in government, reassures homophobes that they can get away with these crimes.⁸⁴

70. Police have failed to take any action in response to a series of attacks on the offices of human rights defenders who work on behalf of sexual minorities and threats to the families of those human rights defenders and their families. On June 1, 2013, burglars broke into the Douala headquarters of the Central African Human Rights Defenders Network (REDHAC), an organization supporting the rights of people who are LGBTI and human rights defenders who work on their behalf.⁸⁵ The burglars stole computers and flash drives, but left other valuables

⁷⁹ Submission by Alternatives-Cameroon and others to the UN Human Rights Council on the Universal Periodic Review October 2012 p. 1.

⁸⁰ Judith Silberfeld, Cameroun: Arrestation de Stéphane Koche, vice-président d'Adefho, Yagg.France, Mar. 29, 2012, <http://yagg.com/2012/03/29/cameroun-arrestation-de-stephane-koche-vice-president-dadefho/>.

⁸¹ Amnesty International, Cameroon: Make Human Rights a Reality, January 2013 Index: AFR17/001/2013 at 29.

⁸² Eric Ohena Lembembe, *LGBTI meeting in Cameroon turns bloody as gay-bashers invade*, June 19, 2012, <http://76crimes.com/2012/06/19/gang-beats-up-20-at-cameroon-anti-homophobia-meeting/>.

⁸³ Colin Stewart, *Cameroon: Stop turning blind eye to death threats*, <http://76crimes.com/2013/02/13/cameroon-stop-turning-blind-eye-to-death-threats/> February 13, 2013.

⁸⁴ Human Rights Watch, *Cameroon: Spate of Attacks on Rights Defenders*, <http://hrw.org/print/news/2013/07/01/cameroon-spate-attacks-rights-defenders> (last viewed on July 8, 2013).

⁸⁵ Eric Ohena Lembembe, *After attacks, LGBTI defenders in Cameroon seek safety*; <http://76crimes.com/2013/07/05/after-attacks-lgbti-defenders-in-cameroon-seek-safety> July 5, 2013.

untouched. REDHAC filed a complaint with the police, but no arrests have been made. REDHAC's director, Maximilienne Ngo Mbe, has received death threats by text message. On April 5, 2013, unidentified assailants attempted to kidnap her son from his school. In September 2012, men in Cameroon security force uniforms kidnapped and raped her niece, in an attack the director believes was intended to punish her for her human rights work.⁸⁶

71. On June 16, 2013 unknown persons broke the doors to the office of prominent human rights lawyer, Michel Togu , and took several items such as his laptop, confidential legal files, flash drives, and Attorney Togu 's passport. An envelope containing almost 1,300 euros was opened but left at the scene by the assailant; in all likelihood this attack was not a simple burglary. Mr. Togu  represents about ten clients facing charges of violating Article 347a. Over the last nine months, Mr. Togu  has received dozens of death threats, including threats to kill his young children. His wife and children have sought refuge outside of Cameroon, but Mr. Togu  remains in Cameroon to continue his work.⁸⁷
72. Another prominent lawyer who represents people who are LGBTI, Alice Nkom, has also received death threats. Cameroonian authorities have failed to condemn the threats or offer any protection.⁸⁸
73. On June 26, 2013, unidentified assailants set fire to the Alternatives-Cameroon Access Center in Douala.⁸⁹ Neither firefighters nor neighbors responded to the blaze. Patients' records were destroyed along with most of the equipment, including desks, chairs, computers, fans, and patients' medical records. Before the fire, the Access Center provided health care services, including HIV testing, counseling, support, and safe-sex outreach to men who have sex with men (MSM) and women who have sex with women (WSW). It also provided anti-retroviral drugs to people stigmatized on the basis of their sexual orientation or gender identity. Alternatives filed a complaint with the police, but there is no indication that the police have made a thorough investigation and no one has been arrested.⁹⁰ Alternatives-Cameroon called on the Government to take action, saying:

We have not received even a phone call from state officials with whom we work as the representatives of the Ministry of Public Health and the National Committee for the Fight Against AIDS, although the work of these groups is aimed at improving services to men who have sex with men through HIV testing and HIV/AIDS counseling, as outlined in the National Strategic Plan for the Fight Against AIDS.⁹¹

[Human rights defender Eric Ohena Lembembe is tortured and murdered; other human rights defenders face growing insecurity and suspend services; the Government responds by lashing out at human rights groups](#)

⁸⁶ Human Rights Watch, *Spate of Attacks on Rights Defenders*, July 1, 2013, <http://www.hrw.org/print/news/2013/07/01/cameroon-spate-attacks-rights-defenders>; Amnesty Annual Report: Cameroon 2013, May 23, 2013, <http://www.amnestyusa.org/research/reports/annual-report-cameroon-2013?page=show>.

⁸⁷ Written Communication with Michel Togue, Aug. 19, 2013; Colin Stewart, *Cameroon: Stop turning blind eye to death threats*, <http://76crimes.com/2013/02/13/cameroon-stop-turning-blind-eye-to-death-threats/> February 13, 2013; Eric Ohena Lembembe, *After death threats, burglars strike Cameroon LGBT defender*, <http://76crimes.com/2013/06/23/after-death-threats-burglars-strike-cameroon-lgbt-defender/>, June 23, 2013.

⁸⁸ Colin Stewart, *Cameroon: Stop turning blind eye to death threats*, <http://76crimes.com/2013/02/13/cameroon-stop-turning-blind-eye-to-death-threats/> February 13, 2013; Eric Ohena Lembembe, *After death threats, burglars strike Cameroon LGBT defender*, <http://76crimes.com/2013/06/23/after-death-threats-burglars-strike-cameroon-lgbt-defender/>, June 23, 2013.

⁸⁹ Human Rights Watch, *Cameroon: Spate of Attacks on Rights Defenders*, <http://hrw.org/print/news/2013/07/01/cameroon-spate-attacks-rights-defenders> (last viewed on July 8, 2013).

⁹⁰ *Ibid.*

⁹¹ *Ibid.*

74. The Government of Cameroon has responded to the murder of vocal human rights defender Eric Ohena Lembembe by blaming LGBTI activists for trying to make the Government look bad, rather than by ensuring that his murderers are identified and held accountable. On July 15, 2013, friends found Eric Ohena Lembembe's mutilated body in his apartment; his feet and neck were broken and he had been burned with an iron on his face, hands, and feet.
75. Mr. Lembembe had been a well-respected leader among human rights defenders advocating on behalf of sexual minorities. Mr. Lembembe was the Executive Director of CAMFAIDS, which was founded in 2010 to combat the increasing rate of HIV/AIDS among Cameroon's sexual minorities.⁹² Mr. Lembembe himself was deeply involved in HIV prevention activities. In April 2013, he did research for a project by the Johns Hopkins Bloomberg School of Public Health and the Global Viral Forecasting Initiative. He also helped collect information for an AIDS prevention study conducted for the Global AIDS Program of the U.S. Centers for Disease Control and Cameroon's Comite National de Lutte contre le SIDA (CNLS) and Ministry of Public Health. He had also contributed to a study conducted for Care Cameroon, Alternatives-Cameroon, and Humanity First Cameroon.⁹³
76. An active and well-regarded former journalist, Mr. Lembembe documented violence, blackmail, and arrests targeting members of Cameroon's gay community. He was also a regular contributor to the *Erasing 76 Crimes* blog, which focuses on countries where homosexuality is illegal, and he wrote several chapters of *From Wrongs to Gay Rights*, a book released in February 2013 on the global gay rights movement. CAMFAIDS and Mr. Lembembe had recently contributed to a Human Rights Watch report describing human rights violations in the enforcement of Article 347a.⁹⁴ Prominent members of the international community in Cameroon attended Mr. Lembembe's funeral, including the U.S. Ambassador, the United Kingdom's High Commissioner, and the European Union's program director for Cameroon.⁹⁵
77. Mr. Lembembe had taken a leadership role in highlighting the escalating threats to the security of human rights defenders working on LGBTI issues. Less than two weeks before he was killed, Mr. Lembembe wrote an on-line article entitled *After Attacks, LGBTI Defenders in Cameroon Seek Safety*.⁹⁶ In the article, Mr. Lembembe interviewed other human rights defenders about their need for security following the destruction of Alternatives-Cameroon's office by fire, break-ins at the other offices, and escalating death threats. Mr. Lembembe stated:
- Cameroonians show no signs that they are aware of the problem. No one has denounced the attacks. No one has visited the scenes of the fire and the burglaries.⁹⁷
- Soon after he made this statement, Mr. Lembembe was tortured and murdered.
78. The international human rights community has responded with alarm to Mr. Lembembe's murder, calling on the Government of Cameroon to take prompt action to ensure the security of human rights defenders, and to identify Mr. Lembembe's murderers and hold them accountable. The African Commission's Special Rapporteur on Human Rights Defenders responded with "great indignation" to Mr. Lembembe's murder and emphasized that she is "deeply concerned by the persistent climate of insecurity in Cameroon for human rights and specifically those involved

⁹² Eric Ohena Lembembe, *Expanding the fight against AIDS among LGBT's in Cameroon*, <http://76crimes.com/2012/06/14/expanding-the-fight-against-aids-among-lgbts-in-cameroon> June 14, 2012.

⁹³ Colin Stewart, *Mass Mourning for Slain Activist*, <http://76crimes.com/2013/08/04/hundreds-mourn-murdered-lgbt-activist-in-cameroon>, August 4, 2013.

⁹⁴ Human Rights Watch, *Guilt By Association: "Human Rights Violations in the Enforcement of Cameroon's Anti-Homosexuality Law"* p. 36-37 March 2013.

⁹⁵ *Mass Mourning for Slain Activist*, <http://76crimes.com/2013/08/04/hundreds-mourn-murdered-lgbt-activist-in-cameroon>, August 4, 2013.

⁹⁶ Eric Ohena Lembembe, *After Attacks, LGBTI Defenders in Cameroon Seek Safety*, *Erasing 76 Crimes*, July 5, 2013, <http://76crimes.com/2013/07/05/after-attacks-lgbti-defenders-in-cameroon-seek-safety/>.

⁹⁷ *Ibid.*

in the defense of the rights of sexual minorities.”⁹⁸ She called on the Government of Cameroon “to conduct an independent investigation, promptly and impartially, to identify those responsible” for Mr. Lembembe’s murder and to bring them to justice.⁹⁹ She also called on the Government to “ensur[e] the physical and psychological integrity of all human rights defenders operating in Cameroon.”¹⁰⁰ The United Nations has also requested an investigation into Mr. Lembembe’s death.¹⁰¹

79. According to Attorney Alice Nkom, the police did not take photographs of the crime scene and collected no evidence. She believes it is likely the police did not bother with an investigation because neighbors told them Mr. Lembembe was gay.¹⁰² The government had ordered an autopsy as early as July 19,¹⁰³ but the results have not been made public or even released to Mr. Lembembe’s family.

80. The Government of Cameroon’s refusal to publicly condemn Mr. Lembembe’s murder sends a message that the Government condones these attacks. The international community has unsuccessfully urged the Government of Cameroon to publicly condemn the murder. A Human Rights Watch representative said:

We have urged [President] Biya to make a public statement about the death of Eric [Ohena] Lembembe – we think the violence has got to the point where the head of state needs to speak up. So far he hasn’t, and there hasn’t been any other public reaction from the government. Their silence provides the conditions for this kind of crime to continue.¹⁰⁴

81. Instead of publicly condemning Mr. Lembembe’s torture and murder, the Government of Cameroon, through its “minister of communications[,] rebuked activists for accusing the government of being lax in its response to the case.”¹⁰⁵ Attorney Alice Nkom reported that, in response to activists’ calls for an investigation, the Government accused human rights defenders of damaging Cameroon’s image abroad.¹⁰⁶ He accused the foreign media of orchestrating a media campaign about Mr. Lembembe’s murder and the plight of LGBTI people in Cameroon, and of incorrectly reporting that Cameroonian officials do not take sufficient steps to investigate acts of violence against homosexuals and human rights defenders who work on their behalf.¹⁰⁷

⁹⁸ African Commission Special Rapporteur on Human Rights Defenders, Communiqué de presse sur l’assassinat du défenseur des droits de l’homme Eric Ohena Lembembe, July 25, 2013, <http://www.achpr.org/fr/press/2013/07/d170/>.

⁹⁹ *Ibid.*

¹⁰⁰ *Ibid.*

¹⁰¹ U.N. asks investigation in death of Cameroonian gay activist Lembembe, UPI.com, July 19, 2013, http://www.upi.com/Top_News/US/2013/07/19/UN-asks-investigation-in-death-of-Cameroonian-gay-activist-Lembembe/UPI-11721374267758/#ixzz2cWw5zpST.

¹⁰² Colin Stewart, *Cameroon police can’t be bothered to probe activist’s murder*, Erasing 76 Crimes, July 1, 2013, <http://76crimes.com/2013/07/19/cameroon-police-can-t-be-bothered-to-probe-activists-murder>.

¹⁰³ Cameroun - Décès de Eric Hubert Lembembe Ohena: La déclaration de Issa Tchiroma Bakary, Ministre de la Communication, le 19 juillet 2013 à Yaoundé, Cameroon-info.net, July 22, 2013, <http://www.cameroon-info.net/stories/0,49230,@,cameroun-deces-de-eric-hubert-lembembe-ohena-la-declaration-de-issa-tchiroma-bak.html>.

¹⁰⁴ Afua Hirsch, *Cameroon Gay Rights Activist Found Tortured and Killed, Campaigners Say They Are Worried the Authorities Won’t Investigate the Killing After Previously Ignoring Similar Attacks*, The Guardian, July 18, 2013, <http://www.theguardian.com/world/2013/jul/18/cameroon-gay-rights-activist-killed>.

¹⁰⁵ Claudine Boeglin & Katie Nguyen, *Life Harder for Cameroon Gays Since Activist’s Killing-Lawyer*, Thomson Reuters Foundation, Aug. 14, 2013, <http://www.trust.org/item/20130814101503-cedi5/?source=shem>.

¹⁰⁶ *Ibid.*

¹⁰⁷ Cameroun - Décès de Eric Hubert Lembembe Ohena: La déclaration de Issa Tchiroma Bakary, Ministre de la Communication, le 19 juillet 2013 à Yaoundé, Cameroon-info.net, July 22, 2013, <http://www.cameroon-info.net/stories/0,49230,@,cameroun-deces-de-eric-hubert-lembembe-ohena-la-declaration-de-issa-tchiroma-bak.html>.

Since then, efforts to intimidate human rights defenders have escalated, with some threats warning activists that they are “second on the list.”¹⁰⁸

82. Anti-gay vigilante groups have stepped up their activities, and threats against activists have escalated, causing human rights defenders to fear for their safety. “In the weeks since [Mr.] Lembembe’s killing, a number of gay rights activists have received threatening text messages.” On August 21, 2013, more than 100 supporters of the Rally for Cameroonian Youth held a demonstration and march through the streets of Yaoundé to mark what they called the “Second International Day Against Homosexuality.” (There is no evidence that the day is noted anywhere other than Cameroon.) In the wake of the rally, Attorney Michel Togué observed: “I have the impression that the persecution of homosexuals is sharply on the rise since Lembembe was murdered. A demonstration like the one today is clear proof.” He continued: “If I tell you I’m not scared, then I’m joking. I’m scared for my security.”¹⁰⁹
83. The climate of insecurity has prompted human rights defenders to suspend activities. In the wake of the fire at Alternatives-Cameroon, the murder of Eric Ohena Lembembe, and the burglaries and escalating threats against human rights defenders and their families since Mr. Lembembe’s murder, and in the face of the Government of Cameroon’s refusal to condemn these acts, organizations serving sexual minorities in Cameroon have had to halt HIV/AIDS education programs until security is improved. Yves Yomb, the executive director of Alternatives-Cameroon, the country’s oldest provider of health services to the LGBTI community, explained: “The associations have decided to stop working because of the climate of insecurity” in Cameroon. “It was urgent that we stop so we would not be further exposed to danger.”¹¹⁰ As Dominique Menoga, co-founder with Eric Ohena Lembembe of CAMFAIDS, said simply: “We need protection.”¹¹¹

Suggested questions for the delegation from the Government of Cameroon:

- a. Was an autopsy of Eric Ohena Lembembe’s body performed? Was the autopsy conducted in conformity with the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (“Manuel sur la prévention des exécutions extrajudiciaires, arbitraires et sommaires et les moyens d’enquête sur ces exécutions”), U.N. Doc. E/ST/CSDHA/.12 (1991)? When will the results of the autopsy be released to Mr. Lembembe’s family?
- b. Has the Government of Cameroon undertaken a prompt and thorough investigation into the murder of Eric Ohena Lembembe, in accordance with U.N. General Assembly Resolution 65/208 of March 2011? If so, what are the results of that investigation?
- c. What measures has the Government of Cameroon taken to investigate and hold the perpetrators accountable for:
 - The torture and murder of Eric Ohena Lembembe;
 - Threats against the lives of Michel Togué, Alice Nkom, Maximilienne Ngo Mbe, other human rights defenders, and their family members;
 - Burglaries at the offices of REDHAC and Michel Togué;
 - Fire at the Alternatives-Cameroon Access Center in Douala; and

¹⁰⁸ Claudine Boeglin & Katie Nguyen, *Life Harder for Cameroon Gays Since Activist’s Killing-Lawyer*, Thomson Reuters Foundation, Aug. 14, 2013, <http://www.trust.org/item/20130814101503-cedi5/?source=shem>.

¹⁰⁹ Divine Ntaryike, *Cameroon Rally Targets Suspected Gay Bars*, Associated Press, Aug. 21, 2013, <http://abcnews.go.com/International/wireStory/cameroon-rally-targets-suspected-gay-bars-20024784>.

¹¹⁰ Colin Stewart, *Cameroon Groups: it’s too dangerous to keep fighting AIDS*; <http://76crimes.com/2013/07/22/cameroon-groups-its-too-dangerous-to-keep-fighting-aids> July 22, 2013.

¹¹¹ *Ibid.*

- The Rally for Cameroonian Youth’s violent attack on a workshop in Yaoundé in May 2012?
- d. What measures has the Government of Cameroon taken to carry out the African Commission’s 2010 recommendation to “[g]uarantee security in the exercise of their activities for the human rights defenders in conformity with the United Nations Declaration on Human Rights Defenders and the principles prescribed by the African Charter”?¹¹²
 - e. What measures has the Government of Cameroon taken to ensure the safety and security of human rights defenders who work on issues related to sexual minorities?
 - f. How can human rights defenders obtain Government protection when they face threats and harassment? What kinds of protection will the Government provide?
 - g. What measures has the Government of Cameroon taken to deter future efforts to intimidate and harass human rights defenders who work on issues related to sexual minorities?
 - h. Why has the Government of Cameroon refused to publicly condemn the murder of Eric Ohena Lembembe?

Suggested recommendations for the Government of Cameroon:

- a. Publicly condemn the murder of human rights defender and community health actor, Eric Ohena Lembembe.
- b. Appoint a special, independent special task force, selected in consultation with civil society organizations working on LGBTI rights and HIV/AIDS issues, to investigate the murder of Eric Ohena Lembembe and bring the perpetrators to justice, and offer the task force the services of any government security or investigatory personnel it requests.
- c. Appoint and fund a task force, including members of civil society, to create a National Action Plan for the Elimination of Discrimination Against Sexual Minorities, with benchmark indicators for each component of the National Action Plan.
- d. Fund and implement the above National Action Plan, with the collaboration of civil society organizations and other stakeholders.
- e. Allow organizations working on issues relating to sexuality, gender, sexual orientation, and gender identity to be certified as legally recognized non-profit organizations.
- f. Enact legislation to outlaw hate crimes, including crimes motivated by the victim’s actual or perceived sexual orientation or gender identity.
- g. Issue a directive to government-owned radio and television stations to cease all programming that condemns or denigrates sexual minorities or that promotes discrimination on the basis of sexual orientation or gender identity.
- h. Direct prominent government officials to make regular public statements affirming the rights of sexual minorities and human rights defenders who work on issues concerning sexual minorities and condemning all efforts to intimidate and harass them.

¹¹² African Commission on Human and Peoples’ Rights, 47th Ordinary Session, Concluding Observations and Recommendations on the Second Periodic Report of the Republic of Cameroon, 12-26 May 2010, para. 52.

B. The Government of Cameroon’s Enforcement of Article 347a Violates Prohibitions on Arbitrary Arrest, Torture, and Ill-Treatment, and Violates Individuals’ Right to Privacy and Personal Security, and Their Right to Be Free from Discrimination on the Basis of Sexual Orientation or Gender Identity.

84. Arrests and harassment of sexual minorities are neither quantitatively nor qualitatively “negligible”—the Government of Cameroon’s recent assertions notwithstanding. The Government of Cameroon regularly arrests and prosecutes individuals under Article 347a. Since 2010, the Government of Cameroon has prosecuted at least 28 people under Article 347a,¹¹³ and since 2005, the Government has arrested more than 51 people.¹¹⁴ Although Article 347a outlaws “sexual relations with a person of the same sex”—not sexual orientation or identity—arrests and convictions are rarely based on evidence of actual sexual conduct.¹¹⁵ In fact, there are virtually no cases in which police or eyewitnesses assert that they witnessed the alleged sexual acts.¹¹⁶
85. Security forces often target suspected sexual minorities for torture and degrading and inhuman treatment. Human rights defenders report that law enforcement officials frequently extort and harass LGBTI persons.
86. There has been a barrage of reported arrests and prosecutions of people suspected of violating Article 347a. In the last three years, law enforcement officials have arrested the following people:
- In March 2010, Stéphane Maliedji, Jacques Yenguie, and John Vaseck (an Australian citizen), were arrested and jailed for three days after police arrested them in a hotel lobby in Douala on suspicion of homosexuality. The men fled Cameroon and were tried in absentia on March 7, 2011.¹¹⁷
 - On March 23, 2010, gendarmes caught two men fighting and interrogated them. According to the gendarmes’ report, one of the men said they had engaged in sex for money and were fighting over payment. The other man disagreed, saying he had refused a seduction attempt. Following their arrest, both men were convicted and sentenced to jail. After serving out their sentences, the men were released in late 2010.¹¹⁸
 - In August 2010, L.I. was arrested after agreeing to a romantic encounter that intelligence officers had staged to entrap him. They beat him and then forced him to walk naked through the streets. The gendarmes then charged him with public indecency and attempted homosexuality.¹¹⁹
 - In September 2010, Roger Bruno Efaaba Efaaba and Marc Henri Bata were arrested in Yaoundé and held in pre-trial detention after police found them in possession of condoms and lubricant labeled “glisse entre mecs” (“slide between guys”). In January 2011, they were convicted of homosexuality, sentenced to six months in prison, and fined. They filed an

¹¹³ Human Rights Watch, *Guilt By Association: Human Rights Violations in the Enforcement of Cameroon’s Anti-Homosexuality Law* p. 20-21 March 2013.

¹¹⁴ *Ibid.*

¹¹⁵ *Ibid.*

¹¹⁶ Amnesty International, *Cameroon urged to overhaul laws criminalizing gay relationships*, 5 March 2012, <http://www.amnesty.org/en/news/cameroon-urged-overhaul-laws-criminalizing-gay-relationships-2012-05-03>; Human Rights Watch, *Guilt By Association: Human Rights Violations in the Enforcement of Cameroon’s Anti-Homosexuality Law* p. 20-21 March 2013.

¹¹⁷ Human Rights Watch, *Guilt By Association: Human Rights Violations in the Enforcement of Cameroon’s Anti-Homosexuality Law* p. 22 March 2013.

¹¹⁸ *Id.*, at 19.

¹¹⁹ *Id.*, at 29-30.

appeal in February 2011, but the court never scheduled a hearing or released a decision. On April 7, 2011, the men were released for time served.¹²⁰

- On September 3, 2010, in the city of Kribi, Louis Marcel Ijanja, a village chief, was arrested on charges of homosexuality. He was later released from jail to await trial.¹²¹
- A recent asylum-seeker from Cameroon reported that in 2010, police subjected him to horrendous torture and abuse in detention after he admitted he was gay. First, a police informant befriended him at university and suggested they begin a romantic relationship. Before they became intimate, the informant got up on the pretext of locking the door. Instead, he let in a group of students and told them the man was gay. The crowd dragged him onto the street, beat him, and stripped him of his clothes. When police arrived, they arrested him. In detention, police struck him on the back of his knees with a rigid rubber baton, beat him for hours at a time, tied his hands and hung him on an iron rod, chained his legs, hit him on the bottom, genitals, hands, and feet, and struck him on the face with a gun, breaking his teeth. A medical report corroborates these injuries. After his release, he went into hiding, fearing more violence if he returned to university. His parents have subsequently faced harassment and threats for their efforts to protect their son.¹²²
- In March 2011, Jean-Claude Roger Mbede was arrested after writing a romantic text message to another man. Gendarmes beat him while he was in custody. At trial, Mbede had no legal representation. Prosecutors did not present evidence of actual or attempted sexual conduct. Mbede was convicted on the basis of the text messages alone, and the court sentenced him to three years in prison. Due to health concerns, he was released provisionally in July 2012, but he faces the risk of being returned to prison. His first appeal was denied in December 2012. He is currently in hiding, hoping for a favorable ruling by the Supreme Court of Cameroon.¹²³
- In April 2011, Aboubakar Siliki and Mbezele Yannick were arrested on homosexuality charges after they went to the police station to resolve a financial dispute. Then, when Yntebeng Pascal arrived at the station to discuss the situation, the police decided he was “too effeminate” and arrested him. All three men were detained for two days and then released pending trial.¹²⁴
- In June 2011, neighbors undressed, insulted, and beat a man with a mobile disability after a man he and his brother suspected of theft accused him of being gay. Police then arrested the victim. He has subsequently received death threats.¹²⁵
- In July 2011, Jonas Singa Kumie and Franky Djome were arrested for homosexual conduct and “beaten on the soles of their feet until they confessed to being gay.”¹²⁶ They were convicted based on these coerced confessions, sentenced to five years’ imprisonment, and fined 200,000 CFA francs. A third man, arrested with them but provisionally released, was convicted in absentia. In January 2013, Mr. Kumie and Mr. Djome were acquitted on appeal. Hours after being released from prison, they narrowly escaped being lynched by a mob. The

¹²⁰ *Id.*, at 25.

¹²¹ *Id.*, at 33-34.

¹²² Asylum case 1.

¹²³ Human Rights Watch, *Guilt By Association: Human Rights Violations in the Enforcement of Cameroon’s Anti-Homosexuality Law* p. 26-28 March 2013.

¹²⁴ IGLHRC, Cameroon: Press Release on Arrest of Three Alleged Homosexuals, Apr. 23, 2011, <http://www.iglhrc.org/content/cameroon-press-release-arrest-three-alleged-homosexuals>.

¹²⁵ Amnesty International, Cameroon: Make Human Rights a Reality, January 2013 Index: AFR17/001/2013 at 31.

¹²⁶ U.S. State Dept. 2012 Report, 34, <http://www.state.gov/documents/organization/204309.pdf>.

public prosecutor filed a motion with the Supreme Court of Cameroon challenging the acquittal.¹²⁷

- On August 3, 2011, police arrested Vincent de Paul Njike and accused him of having sexual relations with minors, including two boys. He denied the accusations and told authorities his accuser owed him money. As of December 2012, he had not been tried.¹²⁸
- In August 2011, Joseph Magloire Ombwa was arrested at his home after another man reported him to the police for allegedly making advances toward him. Without a warrant, the police entered and searched Mr. Ombwa's home. They seized condoms and lubricant, which they asserted were evidence of homosexuality. When Ombwa's relative Sylvain Séraphin Ntsama and Emma Loutsi Tiomela (a 17-year-old minor) visited Ombwa at the police station in Yaoundé, they were arrested and charged with homosexuality. A man named Nicolas Ntamack was later arrested at the home of Ntsama. A military doctor subjected Mr. Ombwa to an anal examination. The court denied a motion to nullify the case based on due process violations. The court found that security forces did not need a warrant to surprise Mr. Ombwa "in *flagrant delit* of homosexuality," even though Mr. Ombwa was not engaged in sexual activity when the police entered his home. Ms. Tiomela (the minor) was released definitively and Mr. Ntamack was released on bail in July 2012. Mr. Ombwa and Mr. Ntsama remained in prison awaiting trial for two years.¹²⁹ In July 2013, the court sentenced Mr. Ombwa to two years in prison and a fine of 50,000 CFA francs. In the same case, the minor defendant received a one-year suspended sentence.¹³⁰
- In August 2011, Stéphane Nounga and a man known as Eric O. were detained in Yaoundé after a man they had been chatting with on the internet asked to meet them and then turned them in to the police. Following intervention by lawyers, police released the men.¹³¹
- In September 2011, a man was detained for two days in Douala after the parents of another man asked gendarmes to arrest him for allegedly seeking contact with their son.¹³²
- On October 15, 2011, police arrested Thomas Leba in Douala and accused him of being gay. He was convicted and sentenced to one year in prison. He appealed his conviction, but 15 months after sentencing—months after completing his full sentence—he was still in prison awaiting a decision.¹³³
- In November 2011, two young men identified as Depadou N. and Paul Arno were arrested and detained by the police in Yaoundé after a third person accused them of engaging in same-sex relations. They were held at Kondengui prison while awaiting trial on the charge of violating Art 347a.¹³⁴
- In February 2012, two women, Aboa Esther and Abessolo Martine Solange, were arrested in Ambam and charged with lesbianism. A lawyer filed a motion with the Southern Appeal Court to have the proceedings annulled, and the court then released the two women released

¹²⁷ Human Rights Watch, *Guilt By Association: Human Rights Violations in the Enforcement of Cameroon's Anti-Homosexuality Law* p.17-18 March 2013; Amnesty International, *Cameroon: Make Human Rights a Reality*, January 2013 Index: AFR17/001/2013 at 34-36; Alternatives-Cameroon UPR Stakeholder Report, October 2012, p. 2.

¹²⁸ Amnesty International, *Cameroon: Make Human Rights a Reality*, January 2013 Index: AFR17/001/2013 at 36.

¹²⁹ Human Rights Watch, *Guilt By Association: Human Rights Violations in the Enforcement of Cameroon's Anti-Homosexuality Law* p. 33-34 March 2013.

¹³⁰ Cameroon: Two more homosexuality convictions; Erasing 76 Crimes, July 23, 2013, <http://76crimes.com2013/07/23/cameroon-two-more-homosexuality-convictions/>.

¹³¹ *Ibid.*

¹³² Alternatives-Cameroon UPR Stakeholder Report, October 2012, p. 2.

¹³³ Amnesty International, *Cameroon: Make Human Rights a Reality*, January 2013 Index: AFR17/001/2013 at 36.

¹³⁴ *Id.*, at 31.

on condition that they appear at future proceedings of their own accord. They are awaiting the court's decision on the motion.¹³⁵

- In June 2012, Samuel Gervais Akam and A.N. (a minor) were arrested in Douala during a dispute over payment for sex. After the arrests, police allegedly discovered images on Mr. Akam's personal laptop of Mr. Akam engaged in homosexual conduct. Police beat Mr. Akam and forced him to sleep naked on the ground. After eight days of confinement, police charged both individuals with homosexual conduct. They also charged Mr. Akam with committing an offense against a minor. In November 2012, Mr. Akam was released on bail.¹³⁶
- In October 2012, Cornelius Fonya was arrested after a mob seized him, accused him of having sex with a man, and delivered him to the police station in Limbe. On November 7, Mr. Fonya pleaded not guilty to the charges, but the court denied bail. Then on December 23, 2012, the court set bail too high for Mr. Fonya's family to afford, and he remains incarcerated.¹³⁷
- On May 15, 2013, a court in Yaoundé convicted Clarisse Z. and Jeanine N. of homosexual activity, despite the absence of any evidence. The court sentenced them to nine months in prison. Their appeal is pending, but they have already served most of the sentence.¹³⁸
- The leader of an anti-gay vigilante group called the Rally for Cameroonian Youth recently announced that on August 16, 2013, the group's anti-gay vigilante brigade in Yaoundé had "arrested four gay men, who are still in custody."¹³⁹ No further information about these arrests is available.

87. These stories are likely just the tip of the iceberg. The pervasive persecution of sexual minorities in Cameroon means that most people who are arrested on suspicion of "homosexuality" keep quiet and do not report the incidents. Moreover, persecution by private parties is particularly insidious; evidence suggests that people make false accusations of homosexuality against individuals in order to harass or extort them.¹⁴⁰ The victims of this type of persecution do not willingly turn to law enforcement or human rights organizations for assistance. Such persecution therefore goes largely unreported.

88. The Special Rapporteur on torture has noted, as suggested by some of the stories above, that "members of sexual minorities are disproportionately subjected to torture and other forms of ill-treatment because they fail to conform to socially constructed gender expectations. Indeed, discrimination on grounds of sexual orientation or gender identity may often contribute to the process of the dehumanization of the victim, which is often a necessary condition for torture and ill-treatment to take place."¹⁴¹

Suggested questions for the delegation from the Government of Cameroon:

¹³⁵ *Id.*, at 32.

¹³⁶ Human Rights Watch, *Guilt By Association: "Human Rights Violations in the Enforcement of Cameroon's Anti-Homosexuality Law"* p. 30-31 March 2013

¹³⁷ Colin Stewart, *Cameroon police arrest man seized by anti-gay mob*, Erasing 76 Crimes, Nov. 20, 2012, <http://76crimes.com/2012/11/20/cameroon-police-arrest-man-seized-by-anti-gay-mob/>.

¹³⁸ Eric Ohena Lembembe, *Two Lesbians Sentenced to Nine Months*, Erasing 76 Crimes, June 21, 2013 <http://76crimes.com/2013/06/21/cameroon-two-lesbians-sentenced-to-nine-months/>.

¹³⁹ Colin Stewart, *Vigilante brigade hunts Cameroon gays, says anti-gay activist*, Erasing 76 Crimes, August 21, 2013, <http://76crimes.com/2013/08/21/vigilante-brigade-hunts-cameroon-gays-says-anti-gay-activist/>

¹⁴⁰ U.S. State Dept. 2012 Report, 33, <http://www.state.gov/documents/organization/204309.pdf>.

¹⁴¹ U.N. Human Rights Council, *Report of the United Nations High Commissioner for Human Rights, Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity*, U.N. Doc. A/HRC/19/41, para. 34, Nov. 17, 2011.

- a. In November 2011, the U.N. Human Rights Committee published a list of issues prior to the Government of Cameroon's upcoming reporting obligations.¹⁴² The Government of Cameroon's responses were due on July 30, 2013. As of August 23, 2013, no response was available on the Committee's website. Why has the Government delayed responding to the Committee's questions and requests for information?
- b. How many people have been arrested under Article 347a from 2010 to the present? How many have been prosecuted? How many have been convicted? How does the government collect and maintain these data? Please provide statistics broken down by sex, age, and ethnicity, as requested by the U.N. Human Rights Committee in 2011.¹⁴³
- c. What is the evidentiary standard for establishing the grounds to arrest a person under Article 347a?
- d. What is the status of the proceedings in the Roger Jean-Claud Mbede case, as requested by the U.N. Human Rights Committee in 2011?¹⁴⁴
- e. What measures has the Government of Cameroon taken to ensure that law enforcement officials do not arrest people merely because they look or act "effeminate" or because their conduct or appearance does not otherwise conform to traditional gender stereotypes?
- f. What actions does the Government take to ensure that law enforcement officers and prison guards do not subject suspected sexual minorities to torture or other forms of ill-treatment while in detention and to protect homosexual prisoners from discrimination, sexual abuse, and physical violence, as requested in 2011 by the U.N. Human Rights Committee?¹⁴⁵
- g. What steps do investigators and law enforcement officers take to ensure that individuals are protected from harassment and extortion based on allegations that the individuals are gay or lesbian?

Suggested recommendations for the Government of Cameroon:

- a. Immediately repeal Article 347a of the Penal Code and decriminalize consensual sexual relations between adults of the same sex, consistent with regional and international human rights law.
- b. Pending repeal of Article 347a, immediately direct all law enforcement officers to cease all efforts to enforce the provision.
- c. Release all people who are currently detained on the basis of actual or suspected sexual orientation or alleged violations of Article 347a.
- d. Collaborate with civil society organizations that have expertise working with sexual minorities to develop and implement a comprehensive training program for law enforcement officials and prison authorities about the human rights of sexual minorities.

¹⁴² ICCPR, List of issues prior to the submission of the fifth periodic report of Cameroon, CCPR/C/CMR/Q/5 November 2011.

¹⁴³ ICCPR, List of issues prior to the submission of the fifth periodic report of Cameroon, CCPR/C/CMR/Q/5 29 November 2011.

¹⁴⁴ ICCPR, List of issues prior to the submission of the fifth periodic report of Cameroon, CCPR/C/CMR/Q/5 29 November 2011.

¹⁴⁵ ICCPR, List of issues prior to the submission of the fifth periodic report of Cameroon, CCPR/C/CMR/Q/5 29 November 2011.

- e. Establish an independent civilian review board to take and investigate complaints about law enforcement's use of arbitrary detention and torture and cruel, inhuman, and degrading treatment.
- f. Direct law enforcement to immediately cease all harassment and abuse of people suspected to be sexual minorities.
- g. Remove any officer from public patrol duties who has engaged in harassment or abuse of actual or perceived sexual minorities until such time as the officer receives comprehensive training about the human rights of sexual minorities.

C. Criminalization, Discrimination, and Stigmatization Undermine Efforts to Prevent and Treat HIV/AIDS.

89. Men who have sex with men (MSM) are a vulnerable group at risk of contracting HIV/AIDS. In Cameroon's two largest cities, MSM are between 6 and 11 times more likely to be HIV-positive than the general population. Article 347a, however, undermines efforts to provide MSM with preventive care, counseling, and treatment. Moreover, health care personnel discriminate against MSM, making them less likely to receive appropriate medical care or even seek such care in the first place. Private organizations that serve MSM face harassment and threats, but the Government of Cameroon has ignored their requests for protection and support.

Legal Framework: Sexual Minorities Have the Right to Non-Discriminatory Access to Health Care.

90. Article 12(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) requires State Parties to recognize the right of everyone to the highest attainable standard of physical and mental health. The ICESCR Committee has specifically confirmed that the Covenant proscribes discrimination in access to health care on the grounds of sexual orientation and gender identity.¹⁴⁶

91. MSM are a vulnerable group at risk of contracting HIV/AIDS and therefore are entitled to special protections in the provision of preventive health care. People living with HIV/AIDS and people vulnerable to infection are entitled to "basic HIV prevention and care including effective interventions that are simple, relatively inexpensive, improve the quality of life, prevent future transmission of HIV or common opportunistic infections, delay progression of HIV disease and prevent mortality."¹⁴⁷ In 2010, the African Commission recognized its fundamental responsibility to protect the most vulnerable groups in Africa from human rights abuses and identified people living with HIV/AIDS and those at risk as one of the most vulnerable groups.¹⁴⁸

Article 347a Is a Discriminatory Barrier to Health Care.

92. Researchers from the University of KwaZulu-Natal have concluded that criminalization and government denunciations of homosexuality create a climate of fear, reinforce social marginalization, and inhibit HIV-prevention and treatment for MSM. As a result, their chances of infection increase.¹⁴⁹

¹⁴⁶ Committee on Economic Social and Cultural Rights, general comment No. 14 (E/C.12/2000/4) par. 18

¹⁴⁷ WHO, *Prevention and Treatment of HIV and Other Sexually Transmitted Infections Among Men Who Have Sex with Men and Transgender People, Recommendations for a public health approach* 2011 <http://who.int/hiv/en>

¹⁴⁸ 163: Resolution on the Establishment of a Committee on the Protection of the Rights of People Living with HIV (PLHIV) and Those at Risk, Vulnerable and Affected by HIV, <http://www.achpr.org/sessions/47th/resolutions/163/?prn=1> (last visited 12 August 2013)

¹⁴⁹ Matthew Kalamar, et al., HIV prevention interventions targeting men having sex with men in Africa: field experiences from Cameroon, *Culture, Health & Sexuality: An International Journal for research, Intervention and care*, 13:10,1135-1149 <http://dx.doi.org/10.1080/13691058.2011.607244>.

93. In 2010, the African Commission expressed deep concern about criminalization, stigmatization, and discrimination directed at people living with and at risk of HIV/AIDS and created a Committee to protect their rights.¹⁵⁰ In 2012, the Commission extended the Committee's mandate.¹⁵¹ The U.N. Human Rights Committee emphasizes that criminalization of same-sex sexual conduct is a primary barrier to access to health care to prevent and treat HIV/AIDS. In *Toonen v. Australia*, the Committee rejected the argument that criminalization of same-sex sexual practices is a reasonable way to prevent the spread of HIV/AIDS. Rather, the Committee found the opposite: criminalization inhibits the effective implementation of public health education programs addressing HIV/AIDS.¹⁵² In fact, criminalization is one of the primary barriers to comprehensive programs to prevent and treat HIV/AIDS.¹⁵³ In its 2010 Concluding Observations on Cameroon's fourth periodic report, the Committee stressed that "Public health programmes to combat HIV/AIDS should have a universal reach and ensure universal access to HIV/AIDS prevention, treatment, care and support."¹⁵⁴
94. The U.N. High Commissioner for Human Rights acknowledges that criminalization may deter people from seeking health services out of fear of arrest.¹⁵⁵ The U.N. General Assembly has called for an end to discrimination in health care and in this context has expressed deep concern about "violations of human rights and fundamental freedoms based on sexual orientation or gender identity."¹⁵⁶

Criminalization of Same-Sex Sexual Conduct Has Devastating Effects on the Health of MSM and Other Vulnerable Groups.

95. In Cameroon, health care personnel stigmatize and discriminate against MSM. "A 2009 study analyzing populations most at risk in Cameroon revealed that MSM are a marginalized group, victims of acts of stigmatization and discrimination. Indeed, 23.5% of these acts of stigmatization and discrimination took place in the family, 11.5% in religious and medical establishments, and 8.8% in social settings. Overall, among health personnel in hospitals, 75% of acts of stigmatization and discrimination are committed by nurses, 50% by receptionists, and 45.8% by doctors."¹⁵⁷
96. MSM do not reveal their sexual practices to health professionals out of fear they will be harassed or arrested. Criminalization impedes health initiatives aimed at vulnerable groups, "drives men away from service, [and] reduces the likelihood of disclosure of risks to providers and partners."¹⁵⁸ Services and national health plans and policies do not reflect the needs of the MSM community.¹⁵⁹ Moreover, the resulting discrimination itself may reduce the number and

¹⁵⁰ 163: Resolution on the Establishment of a Committee on the Protection of the Rights of People Living with HIV (PLHIV) and Those at Risk, Vulnerable and Affected by HIV, <http://www.achpr.org/sessions/47th/resolutions/163/?prn=1> (last visited 12 August 2013).

¹⁵¹ Resolution on the Extension of the Mandate of the Committee on the Protection of the Rights of People Living with HIV (PLHIV) and Those at Risk, Vulnerable and Affected by HIV 2 May 2012.

¹⁵² Communication No. 488/1992: Australia 04/04/1994. CCPR/C/50/D/488/1992.

¹⁵³ Paul Semugoma et al., Assessing the effects of anti-homosexuality legislation in Uganda on HIV prevention, treatment and care services, SAHARA-J: Journal of Social Aspects of HIV/AIDS: An Open Access Journal, 9:9,173-176. <http://dx.doi.org/20.2080/17290376.2012.744177> (last accessed on August 5,2013).

¹⁵⁴ CCPR/C/CMR/CO/4 (August 2010).

¹⁵⁵ HRC Annual Report: Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity. A/HRC/19/41 p. 17 (2011).

¹⁵⁶ See Chris Beyer, *Global Prevention of HIV Infection for Neglected Populations: Men Who Have Sex With Men*, CID:2010:50, at S111, <http://ilga.org/ilga/en/article/1211>.

¹⁵⁷ HIV/AIDS Prevention Program, Rapport d'Etude, Etude Integree de Surveillance Comportementale et Biologique Chez les Hommes Ayant des Rapports Sexuels Avec les Hommes au Cameroun (May 2012), page 12.

¹⁵⁸ Beyer, Chris, *Global Prevention of HIV Infection for Neglected Populations: Men Who Have Sex with Men*, Clinical Infection Diseases 2010:50

¹⁵⁹ HRC Annual Report : Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity. A/HRC/19/41 p. 17

availability of health care providers willing to care for MSM and other vulnerable groups. Criminalization also limits the ability of available health care workers to provide MSM with essential HIV prevention services, such as condoms, counseling, and testing.¹⁶⁰ Stigmatization and criminalization also prevent the health care community from reaching out to MSM through public media.¹⁶¹ Health services are less accessible, and therefore MSM are less able to seek preventive services, testing, and treatment.

97. The result of these barriers to access to health care is a vastly greater potential for transmission of the virus, both within the MSM community and in the general population.¹⁶² In fact, in its consideration of Cameroon's most recent report, the U.N. Committee on Economic, Social and Cultural Rights expressed concern about the high HIV/AIDS rate in Cameroon and recommended improved access to prevention and treatment services, especially for at-risk groups.¹⁶³
98. The health effects of criminalization and discrimination on the prevalence of HIV/AIDS in the MSM community in Cameroon are dramatic. A recent study found that 44.3% of MSM in Yaoundé and 24.2% of MSM in Douala were HIV-positive,¹⁶⁴ compared with an overall national rate of approximately 4.3%.¹⁶⁵ These results are consistent with a 2011 Progress Report issued by the World Health Organization, UNAIDS, and Unicef. This report found the prevalence of HIV among MSM was higher than in the general population.¹⁶⁶ According to the Report, criminal penalties for same sex conduct "compromise the health of men who have sex with men and their various partners by limiting access to essential HIV and other essential public health services."¹⁶⁷

Criminalization of Same-Sex Sexual Conduct and the Government's Failure to Ensure the Security of Service Providers Are Roadblocks Standing in the Way of an Effective, Comprehensive HIV/AIDS Strategy for Cameroon.

99. Stigmatization and criminalization of same-sex sexual relationships have prevented Cameroon from fully including MSM and WSW in its national HIV/AIDS prevention and treatment strategy. According to the UNAIDS Coordinator in Cameroon, Dr. Mamadou Lamine Sakho, an efficient and effective fight against AIDS must include attention to high risk groups such as

¹⁶⁰ S. Baral et al., *Criminalization of same sex practices as a structural driver of HIV risk among men who have sex with men (MSM): the case of Senegal, Malawi, and Uganda*: AIDS 2010-XVIII International AIDS Conference Abstract no. MOPE0951 <http://www.iasociety.org/Default.aspx?pageId=12&abstractId=200738705> (last viewed on August 5, 2013).

¹⁶¹ Matthew Kalar, et al., HIV prevention interventions targeting men having sex with men in Africa: field experiences from Cameroon, *Culture, Health & Sexuality: An International Journal for research, Intervention and care*, 13:10,1141 <http://dx.doi.org/10.1080/13691058.2011.607244>

¹⁶² Paul Semugoma, et al., *Assessing the effects of anti-homosexuality legislation in Uganda on HIV prevention, treatment and care services*, SAHARA-J: Journal of Social Aspects of HIV/AIDS: An Open Access Journal, 9:9,173-176. <http://dx.doi.org/20.2080/17290376.2012.744177> (last accessed on August 5,2013) ; According to various studies, many African MSM also have sex with women. Tonia Poteat, et al., *HIV Risk among SMS in Senegal: A Qualitative Rapid Assessment of the Impact of Enforcing Laws that Criminalize Same Sex Practices*, PLoS One 6(12); <http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.0028760> (last viewed on August 5, 2013);

Stefan Baral, et al., *HIV Prevalence, Risks for HIV Infection, and Human Rights among Men Who Have Sex with Men (MSM) in Malawi, Namibia, and Botswana*, PLoS One 4(3),

<http://www.plosone.org/artile/info%3Adoi%2F10.1371%2Fjournal.pone.0004997> (last viewed on August 5, 2013).

¹⁶³ CESCR Committee Consideration of reports submitted by States parties under articles 16 and 17 of Covenant, E/C.12/CMR/CO/2-3 (2011).

¹⁶⁴ HIV/AIDS Prevention Program, Rapport d'Etude, Etude Integree de Surveillance Comportementale et Biologique Chez les Hommes Ayant des Rapports Sexuels Avec les Hommes au Cameroun (May 2012), pages 9, 11.

¹⁶⁵ HIV/AIDS Prevention Program, Rapport d'Etude, Etude Integree de Surveillance Comportementale et Biologique Chez les Hommes Ayant des Rapports Sexuels Avec les Hommes au Cameroun (May 2012), pages 42.

¹⁶⁶ Global HIV/AIDS Response: Epidemic update and health sector progress towards Universal Access, Progress Report 2011, Sections 2.2.7 and 6.2.2

¹⁶⁷ Global HIV/AIDS Response: Epidemic update and health sector progress towards Universal Access, Progress Report 2011, Sections 2.2.7 and 6.2.2

MSM. Dr. Sakho recognized that such attention is critical: “In Cameroon, despite an extremely challenging environment, great strides have been made, but much remains to be done to reduce new infections by 2014, particularly among MSM.”¹⁶⁸

100. The Government of Cameroon turns a blind eye to the HIV/AIDS risks of LGBTI individuals, ignoring the need for a comprehensive prevention and treatment strategy. In its 3rd Periodic Report, the Government of Cameroon does not identify any HIV/AIDS programs specifically directed at MSM or WSW.¹⁶⁹ The Report discusses AIDS/HIV programs but says nothing about “one of the most vulnerable groups”: same-sex practicing individuals. Without a comprehensive prevention and treatment strategy that includes MSM and WSW, Cameroon cannot effectively combat HIV/AIDS.¹⁷⁰
101. The Government’s refusal to support the work of private service providers leaves these organizations adrift and vulnerable to private harassment. Private organizations established to provide HIV/AIDS prevention and care services to same-sex practicing individuals have been effective to the extent they are able to operate safely. But without support of or protection by the Government, they face serious obstacles. They cannot spread their message through popular media and must engage in outreach individually and with small groups. For example, Cameroon Humanity First uses peer educators to educate LGBTI people about sexual health. The peer educators hold regular educational talks in their homes about preventing sexually transmitted diseases including HIV/AIDS. Yet two of the peer educators were forced to find new living quarters after neighbors objected to visitors with “ambiguous sexuality.”¹⁷¹ Human rights activists from Affirmative Action felt pressured to move after neighbors accused them of “promoting homosexuality.”¹⁷² In 2012, Eloundou Jules, the president of Cameroon Humanity First asked the Government of Cameroon to take responsibility for the safety of the people working to fight AIDS in order to increase their effectiveness. He said:

We are not sheltered from homophobic attacks. In the streets or neighborhoods, we must blend in and use our utmost discretion while doing business. We have no insurance protection and get no help from the Ministry of Public Health. Our work is not recognized as being in the public interest, despite the fact that the 2011-2015 national Strategic Plan for fighting AIDS recognizes that men who have sex with men (MSM) are a group with a high risk of contamination. . . . [S]ecurity is essential for all organizations working with MSM if we are to have real results [in the fight against AIDS, tuberculosis and malaria].¹⁷³

The Government of Cameroon has not responded to these requests.

¹⁶⁸ To fight HIV/AIDS, doctors must battle their homophobia; <http://76crimes.com/2012/05/14/to-fight-aids-doctors-must-battle-their-homophobia> May 14, 2012; See also, Matthew Kalamar et al., HIV prevention interventions targeting men having sex with men in Africa: field experiences from Cameroon, *Culture, Health & Sexuality: An International Journal for Research, Intervention and Care*, 13:10, 1135-1149 <http://dx.doi.org/10.1080/13691058.2011.607244>.

¹⁶⁹ See 3rd Periodic Report of Cameroon within the Framework of the African Charter on Human and Peoples’ Rights, Sections 236-238, 250, 265-275, 452, 454, addressing AIDS/HIV but not making any mention of “one of the most vulnerable groups: same sex practicing individuals.”

¹⁷⁰ *Off the Map, How HIV/AIDS Programming is Failing Same-Sex Practicing People in Africa*, IGLHRC, 2007 at p.2. The conviction of two men under Art 347a based on their possession of condoms and lubricant actually discourages safe-sex practices. See Human Rights Watch, *Guilt By Association: “Human Rights Violations in the Enforcement of Cameroon’s Anti-Homosexuality Law”* p. 25 March 2013.

¹⁷¹ Eric Ohena Lembembe, *Cameroon homophobia confronts AIDS fighters*; <http://76crimes.com/2012/11/12/cameroon-homophobia-confronts-aids-fighters> November 12, 2012.

¹⁷² Eric Ohena Lembembe, *Cameroon homophobia confronts AIDS fighters*; <http://76crimes.com/2012/11/12/cameroon-homophobia-confronts-aids-fighters> November 12, 2012.

¹⁷³ Eric Ohena Lembembe, *Cameroon homophobia confronts AIDS fighters*; <http://76crimes.com/2012/11/12/cameroon-homophobia-confronts-aids-fighters> November 12, 2012.

Suggested questions for the delegation from the Government of Cameroon:

- a. What efforts has the Government undertaken to ensure that health care providers do not discriminate against sexual minorities and to ensure that such patients feel free to disclose all relevant information to their providers without harassment, stigmatization, or other negative repercussions?
- b. If a patient discloses to a health care provider that he engages in same-sex sexual conduct, can that health care provider report the patient to law enforcement authorities for criminal prosecution?
- c. What efforts has the Ministry of Public Health undertaken to ensure that community health educators serving MSM and other vulnerable groups are secure and do not face harassment and homophobic attacks?
- d. Is the work of community organizations that target MSM for HIV/AIDS prevention and treatment in the public interest?

Suggested recommendations for the Government of Cameroon:

- a. Create and fund a working group, including representatives of organizations serving sexual minorities, to amend the national HIV/AIDS strategic plan to explicitly include comprehensive programming for men who have sex with men and women who have sex with women.
- b. Mandate that all public health care workers receive training on sexual orientation and gender identity and the rights of LGBTI people, and collaborate with civil society organizations working on LGBTI rights to deliver that training.
- c. Prohibit health care workers from disclosing to any law enforcement authorities that a patient engages in same-sex sexual conduct, and create a public awareness campaign to inform patients that health care workers will maintain confidentiality of this information.
- d. Take responsibility for the safety and security of organizations and individuals working to prevent and treat HIV/AIDS among sexual minorities by providing on-call police patrols and protection and by intervening directly when community members express objections to the work of these groups.
- e. Ensure that public health programmes to combat HIV/AIDS have a universal reach, and ensure universal access to HIV/AIDS prevention, treatment, care and support, in accordance with the 2010 recommendations of the U.N. Human Rights Committee.¹⁷⁴

D. Government Officials at All Levels, and Other Prominent Cameroonians, Tacitly Endorse the Persecution of Sexual Minorities by Private Individuals.

102. High-level officials perpetuate prejudice against sexual minorities in Cameroon. For example, in 2012 the Cameroonian Ministry of Justice told Amnesty International that “homosexuality . . . is an unnatural activity that seeks to eliminate human reproduction.”¹⁷⁵ The National Commission on Human Rights and Freedoms in Cameroon has supported criminalization and joined the government in refusing to recognize human rights violations against the LGBTI community and its defenders.¹⁷⁶
103. Religious leaders and the mass media also contribute to stigmatization and discrimination against sexual minorities in Cameroon. In December 2012, for example, Catholic archbishop Victor Tonye Bakot of Yaoundé referred to marriage between people of the same-sex as “a serious crime against humanity,” adding: “We need to stand up to combat it with all our energy. I

¹⁷⁴ CCPR/C/CMR/CO/4, para. 12 (August 2010).

¹⁷⁵ Amnesty International, Cameroon: Make Human Rights a Reality, January 2013 Index: AFR17/001/2013 at 27.

¹⁷⁶ Amnesty International, Cameroon: Make Human Rights a Reality, January 2013 Index: AFR17/001/2013 at 28.

am particularly thankful to our local media that has been spreading this message of it as a criminality against mankind.”¹⁷⁷ The Holy See does not share Bakot’s vehemence toward sexual minorities; Pope Francis recently said: “If a person is gay, seeks God and has good will, who am I to judge?”¹⁷⁸ Within days of Pope Francis’ statement, Bakot resigned his post.¹⁷⁹

104. Vigilante groups regularly and openly patrol city streets to seek out, intimidate, and arrest sexual minorities. On August 21, 2013, an anti-gay vigilante group called the Rally for Cameroonian Youth held a march and demonstration in the streets of Yaoundé to mark what it called the “Second International Day Against Homosexuality.”¹⁸⁰ The leader of the group, Sismondi Barlev Bidjocka, stated that the group has a “brigade [that] patrols the streets of Cameroon’s capital every Friday and Saturday,” and “hunts faggots.”¹⁸¹
105. These groups openly incite the public to commit violence against people who are LGBTI. More than 100 youths participated in the August 21 demonstration, wearing matching t-shirts and holding a professionally printed sign quoting President Biya stating, “This thing is forbidden by law.”¹⁸² According to eyewitness accounts, marchers “made throat-cutting gestures, as if to encourage people to kill homosexuals.”¹⁸³ “Moving in four groups of about 40 people each, the demonstrators paraded Cameroon’s green, red and yellow flag through the streets of Yaounde while distributing pamphlets and T-shirts with anti-gay slogans. They occasionally paused to speak to onlookers about what they described as the dangers of homosexuality.”¹⁸⁴ According to the group’s leader Mr. Bidjocka, one of the march routes was selected because it went through areas that “are often frequented by ‘queers.’”¹⁸⁵ As they marched through the streets, they also placed signs on several school buildings saying “Homosexuals Forbidden,” and “No Gays in Cameroon,” and posted other anti-gay signs on bars suspected of being gay-friendly.¹⁸⁶ They carried placards and distributed brochures saying: “Kill the faggots. They don’t deserve to live.” “Cut off the penises of fags. Plug the sex of lesbians.” “No to homosexuality.” “Homosexuality is a crime against humanity, a serious violation of human rights.” “Youth is fighting against this criminal behavior in Cameroon.” “Hemorrhoids, sphincter incontinence, AIDS . . . these and others are the consequences of homosexuality.” “Dear Parents: Protect your children against this disgusting thing that comes from abroad.”¹⁸⁷
106. The Government of Cameroon appears to be complicit in the activities of these vigilante groups. Michel Togué observed that “the government appeared to be in favor of Wednesday’s rally because large-scale gatherings must have government approval or risk being broken up.”¹⁸⁸ Mr. Bidjocka, the leader of the Rally for Cameroonian Youth, stated that the group’s twice-

¹⁷⁷ <http://www.reuters.com/article/2012/12/25/us-cameroon-homosexuality-idUSBRE8BO05O20121225>

¹⁷⁸ http://www.mercurynews.com/opinion/ci_23852586/

¹⁷⁹ http://www.mercurynews.com/opinion/ci_23852586/

¹⁸⁰ Divine Ntaryike, *Cameroon Rally Targets Suspected Gay Bars*, Associated Press, Aug. 21, 2013, <http://abcnews.go.com/International/wireStory/cameroon-rally-targets-suspected-gay-bars-20024784>.

¹⁸¹ Colin Stewart, Vigilante brigade hunts Cameroon gays, says anti-gay activist, Erasing 76 Crimes, Aug. 21, 2013, <http://76crimes.com/2013/08/21/vigilante-brigade-hunts-cameroon-gays-says-anti-gay-activist/>.

¹⁸² Colin Stewart, Vigilante brigade hunts Cameroon gays, says anti-gay activist, Erasing 76 Crimes, Aug. 21, 2013, <http://76crimes.com/2013/08/21/vigilante-brigade-hunts-cameroon-gays-says-anti-gay-activist/>.

¹⁸³ Colin Stewart, Vigilante brigade hunts Cameroon gays, says anti-gay activist, Erasing 76 Crimes, Aug. 21, 2013, <http://76crimes.com/2013/08/21/vigilante-brigade-hunts-cameroon-gays-says-anti-gay-activist/>.

¹⁸⁴ Divine Ntaryike, *Cameroon Rally Targets Suspected Gay Bars*, Associated Press, Aug. 21, 2013, <http://abcnews.go.com/International/wireStory/cameroon-rally-targets-suspected-gay-bars-20024784>.

¹⁸⁵ Colin Stewart, Vigilante brigade hunts Cameroon gays, says anti-gay activist, Erasing 76 Crimes, Aug. 21, 2013, <http://76crimes.com/2013/08/21/vigilante-brigade-hunts-cameroon-gays-says-anti-gay-activist/>.

¹⁸⁶ Divine Ntaryike, *Cameroon Rally Targets Suspected Gay Bars*, Associated Press, Aug. 21, 2013, <http://abcnews.go.com/International/wireStory/cameroon-rally-targets-suspected-gay-bars-20024784>.

¹⁸⁷ Colin Stewart, Vigilante brigade hunts Cameroon gays, says anti-gay activist, Erasing 76 Crimes, Aug. 21, 2013, <http://76crimes.com/2013/08/21/vigilante-brigade-hunts-cameroon-gays-says-anti-gay-activist/>.

¹⁸⁸ Divine Ntaryike, *Cameroon Rally Targets Suspected Gay Bars*, Associated Press, Aug. 21, 2013, <http://abcnews.go.com/International/wireStory/cameroon-rally-targets-suspected-gay-bars-20024784>.

weekly vigilante brigade to hunt homosexuals enjoys approval from the Secretary of Defense of Cameroon.¹⁸⁹ According to Mr. Bidjocka, the Secretary of Defense “has given us a mandate to track all homosexuals in Cameroon, not to torture them, but to bring them to justice.”¹⁹⁰ In response to the August 21 demonstration, a coalition of organizations working to promote LGBTI rights and fight HIV/AIDS highlighted the Government of Cameroon’s complicity in inciting persecution and violence directed toward sexual minorities: “Misbehavior, hostile actions, and homophobic demonstrations occur with the tacit or obvious complicity of the Cameroonian authorities. They tolerate the perpetrators of homophobic violence and are complicit in hate-inciting actions like today’s.”¹⁹¹

107. Due to pervasive societal stigmatization, people who are perceived to be gay or who do not conform to stereotypical gender roles are especially vulnerable to harassment, extortion, and violence at the hands of vigilante mobs and other private parties—sometimes in collaboration with public officials.¹⁹² For example:

- In December 2011, police in Kumba arrested four young men (Gideon, Leonard, Elvis and Raphael) after a man who had tried to extort money from them denounced them as homosexuals. People in the neighborhood beat the men before police arrested and detained the victims. While in custody, law enforcement personnel tortured the men, and a doctor also subjected them to forced anal examinations.¹⁹³ In late January 2012, with the assistance of a lawyer, the men were released on bail.
- In March 2013, an anti-gay crowd in a local marketplace in Yaoundé attacked Jonas Singa Kumie and his friend Franky Djome.¹⁹⁴ They sought help and protection from the police—who promptly arrested them. After three days in custody, the court in Ekounou released them.¹⁹⁵ Mr. Djome said:

People throw banana peels and rocks at us. They spit on us. . . . Every day we receive death threats. We live in total insecurity. Recently, guys from our neighborhood threatened us, saying they would rape us, then kill us. They do and say that all publicly and nothing happens to them. Others think we should be killed-hanged.¹⁹⁶
- Two weeks after Eric Ohena Lembembe was murdered, a mob in southwestern Cameroon attacked and killed a man they believed to be homosexual. On July 26, 2013, a mob stoned Henry Mbah to death after his wife told neighbors she had seen him kissing another man. When the police arrived at the scene, Mbah was dead. Instead of arresting the killers, the police arrested Mbah’s alleged lover and tortured him until he testified that Mbah had given him drugs.¹⁹⁷

¹⁸⁹ Colin Stewart, Vigilante brigade hunts Cameroon gays, says anti-gay activist, Erasing 76 Crimes, Aug. 21, 2013, <http://76crimes.com/2013/08/21/vigilante-brigade-hunts-cameroon-gays-says-anti-gay-activist/>.

¹⁹⁰ Colin Stewart, Vigilante brigade hunts Cameroon gays, says anti-gay activist, Erasing 76 Crimes, Aug. 21, 2013, <http://76crimes.com/2013/08/21/vigilante-brigade-hunts-cameroon-gays-says-anti-gay-activist/>.

¹⁹¹ Colin Stewart, Vigilante brigade hunts Cameroon gays, says anti-gay activist, Erasing 76 Crimes, Aug. 21, 2013, <http://76crimes.com/2013/08/21/vigilante-brigade-hunts-cameroon-gays-says-anti-gay-activist/>.

¹⁹² United States Department of State 2011 Human Rights Reports: Cameroon 24 May 2012.

¹⁹³ Id.; Human Rights Watch, Guilt By Association: “Human Rights Violations in the Enforcement of Cameroon’s Anti-Homosexuality Law” p. 36-37, March 2013.

¹⁹⁴ See *supra* paragraph 86.

¹⁹⁵ Eric Ohena Lembembe, *Two gay men freed into “living hell” in Cameroon*; <http://76crimes.com/2013/03/28/two-gay-men-freed-into-living-hell-in-cameroon>, March 28, 2013.

¹⁹⁶ Eric Ohena Lembembe, *Two gay men freed into “living hell” in Cameroon*; <http://76crimes.com/2013/03/28/two-gay-men-freed-into-living-hell-in-cameroon> March 28, 2013.

¹⁹⁷ Press Release, Réseau Des Défenseurs Des Droits Humains En Afrique Central (REDHAC), July 26, 2013 www.Redhac.org

- On August 15, 2013, another mob at the same local marketplace in Yaoundé attacked Mr. Kumie and Mr. Djome again. Mr. Kumie managed to escape, but the mob beat Mr. Djome and tore his clothes. One man broke a bottle to try to stab Mr. Djome.¹⁹⁸
- Also on August 15, 2013, a mob at the Apollo Bar in Yaoundé attacked a 16-year-old boy. Members of the mob called the boy a “faggot,” tied him up “[like] an animal,” and beat him severely.¹⁹⁹
- On August 16, 2013, the Rally for Cameroonian Youth’s anti-gay vigilante brigade in Yaoundé reportedly “arrested four gay men, who are still in custody.”²⁰⁰
- Women who do not wear typical feminine clothing or who engage in conduct generally considered unfeminine frequently face persecution.²⁰¹ Like men, they are subject to arrest and imprisonment under Article 347a. Women experience discrimination, verbal and physical abuse, and rejection by their families and communities.²⁰² One woman in Douala recounted:

If they find out you are gay, they will kill you. They suspect I am, but they cannot prove it because I have a son. Regardless, the men in the neighborhood bug me all the time. They constantly call me names.²⁰³

- Neighborhood men physically attacked a woman in Yaoundé because her male guests appeared effeminate, and her landlord forced her to move because he believed she was a “homo.”²⁰⁴
- Lesbians can lose custody of their children on the basis of their sexual orientation, in violation of the right to family recognized in Article 18 of the African Charter. A woman named Laurie lost custody of her children when her brothers and the children’s father discovered she was a lesbian.²⁰⁵ She cannot petition the court to regain custody for fear of being prosecuted for violating Article 347a.²⁰⁶
- Women suspected of having sexual relations with other women are targeted for rape, purportedly to “cure” them of their attraction to women.²⁰⁷ The U.N. Special Rapporteur on Violence Against Women has recognized: “Gender-based violence . . . is particularly acute when combined with discrimination on the basis of sexual orientation or change of gender identity. Violence against sexual minorities is on the increase”²⁰⁸ These incidents are not unique to Cameroon; the U.N. High Commissioner for Human Rights has noted that

¹⁹⁸ Colin Stewart, *More mob violence in Cameroon; anti-gay attacks continue*, Erasing 76 Crimes, Aug. 20, 2013, <http://76crimes.com/2013/08/20/more-mob-violence-in-cameroon-anti-gay-attacks-continue/>.

¹⁹⁹ *Ibid.*

²⁰⁰ Colin Stewart, *Vigilante brigade hunts Cameroon gays, says anti-gay activist*, Erasing 76 Crimes, Aug. 21, 2013, <http://76crimes.com/2013/08/21/vigilante-brigade-hunts-cameroon-gays-says-anti-gay-activist/>.

²⁰¹ Human Rights Watch, *Criminalizing Identities: Rights Abuses in Cameroon based on Sexual Orientation and Gender Identity*, November 2010, p.37

²⁰² *Id.*, at 44.

²⁰³ *Id.*, at 38.

²⁰⁴ *Id.*, at 39.

²⁰⁵ *Id.*, at 42-43.

²⁰⁶ *Id.*, at 42-43.

²⁰⁷ *Id.*, at 46; <http://www2.ohchr.org/english/issues/women/rapporteur/docs/15yearreviewofVAWMandate.pdf>; see also U.N. Human Rights Council, Report of the United Nations High Commissioner for Human Rights, Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, U.N. Doc. A/HRC/19/41, n. 41, Nov. 17, 2011.

²⁰⁸ Statement by the Special Rapporteur on Violence Against Women to the Commission on Human Rights, fifty-eighth session, April 10, 2002, quoted in Human Rights Watch, *Criminalizing Identities: Rights Abuses in Cameroon based on Sexual Orientation and Gender Identity*, November 2010, p. 46 and available at <http://www2.ohchr.org/english/issues/women/rapporteur/docs/15yearreviewofVAWMandate.pdf>. P. 38

“[a]llegations of lesbians being attacked, raped, forcibly impregnated and otherwise punished because of sexual orientation come from many regions.”²⁰⁹

108. As related in greater detail in paragraphs 67, 68, 86, and 101 above, these incidents are neither quantitatively nor qualitatively “negligible.”

Suggested questions for the delegation from the Government of Cameroon:

- a. What measures has the Government made to condemn acts of mob violence targeting actual and perceived sexual minorities and to prevent acts of violence against individuals on account of their real or supposed sexual orientation, as requested in 2011 by the U.N. Human Rights Committee?²¹⁰
- b. Has the Minister of Defense or any other Government official ever communicated to the Rally for Cameroonian Youth that the Government of Cameroon supports its Friday and Saturday “brigades” to hunt for homosexuals in Yaoundé?
- c. Do law enforcement officials ever arrest alleged homosexuals that have been detained by the Rally for Cameroonian Youth’s brigades in Yaoundé, for example on August 16, 2013, as reported by the organization’s leader?
- d. Did the Rally for Cameroonian Youth have Government authorization to hold a demonstration of over 100 people on August 21, 2013, in Yaoundé?
- e. During the Universal Periodic Review of Cameroon earlier this year, a member of the Government Delegation stated that “Cameroon society does not yet accept homosexuality as normal behavior” and that “attitudes will change over time.” What efforts will the Government of Cameroon undertake to promote changes in societal attitudes toward sexual minorities?

Suggested recommendations for the Government of Cameroon:

- a. Collaborate with civil society organizations and the media to design and implement a comprehensive public sensitization campaign to raise awareness of homophobia as a mainstream social issue and to change societal attitudes about sexual minorities.
- b. Engage with social and mainstream media, including community radio stations, to shift the public discourse around homosexuality to create conditions for a constructive dialogue on sexuality and sexual diversity.
- c. Require police officers to create and maintain logbooks including every arrest by date and time including the legal and factual basis for each arrest, and make these logbooks available for inspection by an independent civilian review board to take and investigate complaints about law enforcement use of arbitrary detention and torture and cruel, inhuman, and degrading treatment. Audit these logbooks to identify individuals who have been arrested on the basis of actual or perceived sexual orientation or consensual same-sex sexual conduct and ensure the prompt release of those individuals.
- d. Provide comprehensive, gender- and sexual-orientation-sensitive services to lesbians who are victims of rape and ensure that perpetrators are held accountable.
- e. Instruct all courts handling child-custody matters not to consider a parent’s sexual orientation when making child-custody determinations, and direct courts to inform parents about this instruction.

²⁰⁹ U.N. Human Rights Council, Report of the United Nations High Commissioner for Human Rights, Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, U.N. Doc. A/HRC/19/41, para. 29, Nov. 17, 2011.

²¹⁰ Human Rights Committee, List of issues prior to the submission of the fifth periodic report of Cameroon, CCPR/C/CMR/Q/5 29 November 2011.

- f. Prohibit housing discrimination based on sexual orientation or gender identity.
- g. Take appropriate measures to address social prejudice and stigmatization of homosexuality and clearly demonstrate that the Government of Cameroon does not tolerate any form of harassment, discrimination and violence against individuals because of their sexual orientation, in accordance with the 2010 recommendations of the U.N. Human Rights Committee.²¹¹
- h. Order the Rally for Cameroonian Youth to cease its vigilante brigades to “hunt” homosexuals.

E. Laws Criminalizing Homosexuality Are a Legacy of Colonialism, and the Recent Escalation in Stigmatization Is, in Part, the Product of Neo-Colonialism.

109. Article 347a is a legacy of colonialism. The Government of Cameroon must therefore fulfill its pledge under the Preamble to the African Charter to abolish it.
110. The Preamble to the African Charter recognizes that member states pledge to “eradicate all forms of colonialism from Africa,” to “eliminate colonialism, neo-colonialism . . . and all forms of discrimination” This pledge applies to the eradication of colonial-era laws prohibiting adult, consensual same-sex sexual conduct.

The Government of Cameroon Mistakenly Asserts That “African Culture” Rejects Homosexuality and Allows Persecution of Sexual Minorities.

111. The Government of Cameroon, religious leaders, and the mass media attribute persecution of sexual minorities in Cameroon to “African culture” writ large, and suggest that recognizing the rights of sexual minorities is a “Western” practice. In its Second Periodic Report to the African Commission, for example, the Government of Cameroon asserted: “In the current state of African culture, homosexuality does not only appear to be an unaccepted value by the Cameroonian society but is also considered universally as a manifestation of moral decadence that should be fought.”²¹² Before the U.N. Human Rights Committee, the Government of Cameroon repeated the same argument: “In the current state of African culture, homosexuality does not appear to be a value accepted by Cameroonian society and is overall seen as immoral.”²¹³
112. In Cameroon, Christian men’s fellowship groups have called homosexuality an “abomination” and “satanic.”²¹⁴ Newspapers, films, and radio and television programs frequently condemn homosexuality and urge society to “reject this practice from the West.”²¹⁵ The former archbishop of Yaoundé has echoed these sentiments, adding the proposition that efforts to press Cameroon to respect the rights of sexual minorities are a new form of colonialism: “The West has its culture and the Africans have ours. . . . let each of us remain set in their own culture. . . . I reject this new attempt at colonialism.”²¹⁶

²¹¹ CCPR/C/CMR/CO/4, para. 12 (August 2010).

²¹² Second Periodic Report on Cameroon Within the Framework of the African Charter on Human and Peoples’ Rights, paras. 92-96, submitted 12 May 2010.

²¹³ Comité des droits de l’homme, Réponses du gouvernement du Cameroun à la liste des points à traiter (CCPR/C/CMR/Q/4) à l’occasion de l’examen du quatrième rapport périodique du Cameroun (CCPR/C/CMR/4), U.N. Doc. CCPR/C/CMR/Q/4/Add.1, paras. 79-83 (3 May 2010); see also Amnesty International, Cameroon: Make Human Rights a Reality, January 2013 Index: AFR17/001/2013 at 27 (Cameroon’s Ministry of Justice insists that criminalizing consensual sexual acts between adults of the same sex is “not contrary to duly ratified international instruments that guarantee individual freedoms, namely, Article 12 of the Universal Declaration of Human Rights and the provisions of Article 26 of the International Covenant on Civil and Political Rights, in the sense that, homosexuals are not denied the enjoyment of a right or service because of their presumed sexual orientation.”).

²¹⁴ Eric Ohena Lembembe, *In Cameroon, anti-gay voices grow louder*; <http://lebs295.wordpress.com/2013/03/14/>

²¹⁵ *Ibid.*

²¹⁶ January 28 interview, <http://lebs295.wordpress.com/2013/03/14/>

113. Prosecutors bringing Article 347a cases to trial accuse defendants of attacking “African culture.” For example, a prosecutor in the Douala High Court “requested severe penalties against the offenders on the grounds . . . that they were ‘acculturated’ Africans who were deliberately perverting traditional African culture. He ended his arguments by calling on the Cameroonian government to resist the forces of alienation.”²¹⁷

These Allusions to “African Culture” Are a Red Herring; Laws Criminalizing Consensual Same-Sex Conduct Are a Product of Ethnocentric Colonial Notions of Sexuality.

114. As one Cameroonian scholar recently observed, government officials engage in “a deliberate amnesia on earlier forms of African sexualities, including male and female same-sex relations.”²¹⁸ Homosexuality existed in many traditional African cultures. As Law Professor and former Dean Sylvia Tamale of Makerere University in Kampala explains:

A persistent argument against homosexuality (from politicians, religious leaders, scholars and the media) is that homosexuality is “un-African.” It is further portrayed as a perversion resulting from Western sexual decadence. But the fact is that there is a long history of diverse African peoples engaging in same-sex relations. Anthropological and historical studies point to the presence of homosexuality in a variety of forms in pre-colonial times in at least fifty-five African cultures (Murray and Roscoe, 1998; Amory, 1997). In Uganda, for example, among the Langi of northern Uganda, the mudoko dako “males” were treated as women and they could marry men.²¹⁹ Homosexuality was also acknowledged among the Iteso,²²⁰ Bahima,²²¹ Banyoro,²²² and the Baganda.²²³ It was an open secret in Royal Buganda that Kabaka (king) Mwanga was gay.²²⁴ Hence, trends both in the present and the past reveal that it is time for Africans to bury the tired myth that homosexuality is “unAfrican.” Ironically, it is the dominant Judeo-Christian and Arabic religions that most African anti-homosexuality proponents rely on, that are foreign imports.²²⁵

115. Historians point to a number of recorded anecdotes of same-sex relations in Africa to demonstrate the existence of homosexuality in the pre-colonial period. Homosexuality was not uniformly embraced by all traditional African cultures, but at the very least a blind eye was normally turned to the behavior unless it was socially disruptive.²²⁶ For example, in Angola and Namibia, some groups considered male homosexuals to be inhabited by a strong female spirit

²¹⁷ Basile Ndjio, *Sexuality and Nationalist Ideologies in Postcolonial Africa: (Re)making the African Straight*, at 12, in *THE SEXUAL HISTORY OF THE GLOBAL SOUTH*, Horacio Sivori & Saskia Wieringa (eds.) (2013), available at <http://culturalization.nl/papers/Ndjio,%20Basile%20-%20Sexualities%20and%20nationalist%20ideologies%20in%20postcolonial%20Africa.pdf>.

²¹⁸ *Id.* at 10.

²¹⁹ See Jack Driberg, *The Lango*, (London: Thorner Corydon, 1923). Similar practices were recorded among the Iteso and the Karamajong of north-eastern Uganda.

²²⁰ Jeremy Laurance, *The Iteso; Fifty Years of Change in a Nilo-Hamitic Tribe of Uganda* (Oxford: Oxford University Press 1957).

²²¹ Musa Mushanga, *The Nkole of south-western Uganda*, in Angela Molnos (Ed.), *Cultural Source Materials for Population Planning in East Africa: Beliefs and Practices* (Nairobi: East African Publishing House, 1973).

²²² Rodney Needham, *Right and Left in Nyoro Symbolic Classification*, in *Right and Left: Essays on Dual Classification*, 299-341 (Chicago: University of Chicago Press, 1973).

²²³ Martin Southwold, *The Baganda of Central Uganda*, in Angela Molnos (Ed.), *Cultural Source Materials for Population Planning in East Africa: Beliefs and Practices* (Nairobi: East African Publishing House, 1973).

²²⁴ John Faupel, *African Holocaust: The Story of the Uganda Martyrs* (New York: P.J. Kennedy, 1962).

²²⁵ Sylvia Tamale, *Women’s Sexuality as a Site of Control & Resistance: Views on the African Context* at 7, Keynote Address, International Conference on Bride Price, Makerere University, Feb. 17, 2004, www.mifumi.org (footnotes in original; footnote numeration changed to conform to footnotes in this report).

²²⁶ Marc Epprecht, *Hungochani: The History of a Dissident Sexuality in Southern Africa*, at 39 (Canada: McGill-Queen’s University Press, 2004).

that forced them to have same-sex relationships.²²⁷ There was no negative connotation attached to these persons, and in fact they were respected as spiritual diviners.²²⁸ It was believed that sexual relations with these persons could result in good luck due to direct contact with the spirit world (such as good crops or hunting, health, protection from evil spirits, etc.).²²⁹ In the Mossi (now in Burkina Faso) royal court, same-sex intercourse was ritualized and institutionalized—male pages would dress as women and assume sexual roles with the chiefs.²³⁰ When they came of age, the pages were given wives and carried on heterosexual relationships.²³¹ Even in Zimbabwe, where same-sex relations among adults were not socially accepted, same-sex experimentation among adolescents was not considered abnormal or deviant unless the behavior persisted into adulthood.²³² Women-women marriages have been documented in over forty different ethnic groups in Africa, concentrated in southern Sudan, Kenya, Nigeria, Benin, and southern Africa.²³³

116. European colonists imposed on African peoples their own religious and cultural attitudes toward gender identity, in conjunction with laws that criminalized homosexual behavior.²³⁴ With respect to homosexuality, that legacy endures. Currently 38 countries in Africa criminalize homosexuality,²³⁵ defining the behavior along the lines of “carnal activities against the order of nature.”²³⁶
117. These colonial laws criminalizing homosexuality were rooted in ethnocentric notions of African immorality and corruption. As the U.N. High Commissioner for Human Rights recently observed, these “so-called ‘sodomy laws,’ are often relics of colonial-era legislation.”²³⁷ France instituted anti-sodomy laws in its African colonies, including Cameroon, as a method of social control.²³⁸ Although France had decriminalized homosexuality in 1791, it imposed anti-sodomy in its African colonies.²³⁹ Anti-sodomy laws were often vague and could be broadly interpreted in order to suppress socially “dangerous” persons and even entire populations.²⁴⁰ Colonial powers encouraged local African peoples to fear and reject homosexuality and non-normative gender expression, asserting that the rejection of homosexuality was a sign of progress and social development.²⁴¹
118. European colonists viewed same-sex sexual conduct as sexually and morally corrupt, and they imposed anti-sodomy laws to “cure” indigenous peoples and keep the colonizers free from

²²⁷ *Id.*, at 40-41.

²²⁸ *Ibid.*

²²⁹ *Id.*, at 42.

²³⁰ Stephen O. Murray & Will Roscoe, *Boy-Wives and Female Husband: Studies of African Homosexuality*, at 91-92 (New York: St. Martin’s Press, 1998).

²³¹ *Ibid.*

²³² Marc Epprecht, *Hungochani: The History of a Dissident Sexuality in Southern Africa*, at 40-41 (Canada: McGill-Queen’s University Press, 2004).

²³³ Ruth Morgan & Saskia Wieringa, *Tommy Boys, Lesbian Men and Ancestral Wives: Female Same-Sex Practices in Africa*, at 282-283 (South Africa: Jacana Media (Pty) Ltd., 2005).

²³⁴ Amnesty International, *Making Love a Crime: Criminalization of Same-Sex Conduct in Sub-Saharan Africa*, April 2013, at 15.

²³⁵ *Id.*, at 14.

²³⁶ Human Rights Watch, *This Alien Legacy: The Origins of “Sodomy” Laws in British Colonialism*, Dec. 2008, at 3.

²³⁷ U.N. Human Rights Council, Report of the United Nations High Commissioner for Human Rights, Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, U.N. Doc. A/HRC/19/41, para. 40, Nov. 17, 2011.

²³⁸ Human Rights Watch, *This Alien Legacy: The Origins of “Sodomy” Laws in British Colonialism*, Dec. 2008, at 3.

²³⁹ Amnesty International, *Making Love a Crime: Criminalization of Same-Sex Conduct in Sub-Saharan Africa*, April 2013, at 15.

²⁴⁰ Human Rights Watch, *This Alien Legacy: The Origins of “Sodomy” Laws in British Colonialism*, Dec. 2008, at 11.

²⁴¹ Amnesty International, *Making Love a Crime: Criminalization of Same-Sex Conduct in Sub-Saharan Africa*, April 2013, at 14.

“contagion.”²⁴² European anti-sodomy laws had their origin in medieval times, when the behavior was viewed as an offense against God that threatened social purity.²⁴³ Interestingly, sodomy was lumped together with other offenses that crossed social boundaries and muddled racial and religious identities, such as sexual relations with Jews and Turks.²⁴⁴ Anti-sodomy laws remained on the books in England (as well as many other European nations) until the mid-nineteenth century, though the exact definition of “sodomy” often remained vague.²⁴⁵ The vague definition of “sodomy” allowed colonial authorities to continue to punish and control almost any behavior or group they deemed dangerous.²⁴⁶ Racial and religious undertones were, of course, a motivating factor in perpetuating these laws.²⁴⁷ Unlike other crimes which were arguably violent, deceitful, or otherwise injurious to the public, anti-sodomy laws aimed to punish a behavior practiced behind closed doors and without a discernible effect on society.²⁴⁸ These anti-sodomy laws were designed to punish and control local populations.²⁴⁹ Even when not enforced, the existence of those laws on the books disempowered homosexuals by categorizing them as criminals.²⁵⁰

119. European colonists coerced African peoples into abandoning traditions of tolerance toward same-sex conduct. “According to historian Marc Epprecht, homosexuality has been in Africa from time immemorial, and it is actually homophobia that is un-African. ‘Dogmatic revulsion against same-sex behaviors, acts, relationships, and thoughts was introduced into the region by European colonialists and preachers,’ who characterized such acts as signs of backwardness, he says. ‘Africans were encouraged through these discourses to equate homophobic constructions of sexuality with civilization and progress.’”²⁵¹

120. The post-independence Government of Cameroon has not rejected this legacy of colonialism; rather, it continues to suppress the diversity of the country’s sexual past, perpetuating colonial efforts to control the sexuality of Cameroonians. One Cameroonian scholar recently observed:

Recent studies on same-sex orientation in sub-Saharan Africa have demonstrated how western colonialism, contemporary African popular culture and media, and the two dominant religious traditions (Islam and Christianity), have contributed to construct a singular African sexual selfhood (Epprecht, 2008). These forces have also helped achieve a naturalization of hetero-normativity as a central aspect of postcolonial African governmentality. In Cameroon, . . . the control of the bodies and sexuality of the local population has been a central governmental concern since the creation, by the Ahidjo regime (1960-1982), of the United Republic of Cameroon in 1972. Indeed, the postcolonial Cameroonian government implemented various administrative practices and judicial procedures aimed at homogenizing the sexualities of the masses. Through this sexual governmentality, Cameroonian officialdom also aspired to suppress the plurality of the country’s sexual past (Ndjio 2010). As a result, homosexual men and women, as well as men judged effeminate and women considered mannish came to be seen by

²⁴² Human Rights Watch, *This Alien Legacy: The Origins of “Sodomy” Laws in British Colonialism*, Dec. 2008, at 10-11.

²⁴³ *Id.*, at 13.

²⁴⁴ *Ibid.*

²⁴⁵ *Id.*, at 15.

²⁴⁶ *Id.*, at 28.

²⁴⁷ *Id.*, at 28.

²⁴⁸ *Id.*, at 52.

²⁴⁹ *Ibid.*

²⁵⁰ *Id.*, at 53.

²⁵¹ Marc Epprecht, *Hungochani: The History of a Dissident Sexuality in Southern Africa* (Montreal: McGill-Queen’s University Press, 2004) p. 225, quoted in Kopya Kaoma, *Globalizing the Culture Wars: U.S. Conservatives, African Churches, & Homophobia*, Political Research Associates 2009, at p. 14.

holders of political and administrative power as threats to the postcolonial sexual and gender order.²⁵²

121. The Government of Cameroon's efforts to control the behavior of sexual minorities replicates "mythological colonial representations of black people as prone to sexual excess and promiscuity" and "the colonial essentialist representation of African sexuality."²⁵³ These sexual minorities "confront the postcolonial power with the unpleasant truth that 'African sexuality,' long fantasized and invested in by the postcolonial bourgeoisie as essentially and exclusively heterosexual, is complex, ambivalent and elusive."²⁵⁴

The Recent Escalation in Stigmatization and Persecution of Sexual Minorities in Africa Is, in Part, the Product of Neo-Colonialism.

122. Today, conservative western evangelical Christians actively export their brand of homophobia to Africa.²⁵⁵ "Leaders of the U.S. Christian Right have cultivated African politicians and used the resulting access to push for antigay laws."²⁵⁶ For example, when American Pastor Rick Warren met with political leaders in Uganda and Kenya in 2008, he declared: "Homosexuality is not a natural way of life and thus not a human right."²⁵⁷

123. Western evangelical Christians have played a leading role in stirring up animus directed toward sexual minorities in Africa. Scott Lively, an American minister, has been the architect of a systematic campaign to persecute sexual minorities in Uganda. He has been actively involved in initiatives to intimidate sexual minorities and to deprive them of their human rights. In March 2009, Lively spoke at a conference in Kampala titled "Exposing the Truth behind Homosexuality and the Homosexual Agenda." He told the audience: "The gay movement is an evil institution [whose] goal is to defeat the marriage-based society and replace it with a culture of sexual promiscuity in which there's no restrictions on sexual conduct except the principle of mutual choice."²⁵⁸

124. During the conference, Lively met with Ugandan lawmakers. A month later, the Ugandan Parliament first considered legislation that would allow for imposition of the death penalty for some adult, consensual same-sex conduct. Lively boasted that he was instrumental in dropping "a nuclear bomb against the 'gay' agenda in Uganda."²⁵⁹

125. U.S.-based evangelicals have turned to African churches in their fight against mainline religious groups in the United States. Since the early 1960s, established denominations such as the Episcopal Church, the United Methodist Church, and the Presbyterian Church have worked to empower vulnerable groups including the poor, racial minorities, women, and sexual minorities. Some conservative Christian groups have broken with mainline churches over the decision to welcome gay believers into their congregations and clergy.

126. Using financial contributions as well as conferences and radio broadcasts, these evangelicals have sought to leverage support for their position in Africa to advance their agendas in the United States. This support has helped conservatives block ordination of LGBTI clergy in the

²⁵² Basile Ndjio, *Sexuality and Nationalist Ideologies in Postcolonial Africa: (Re)making the African Straight*, at 2-3, in *THE SEXUAL HISTORY OF THE GLOBAL SOUTH*, Horacio Sivori & Saskia Wieringa (eds.) (2013), available at <http://culturalization.nl/papers/Ndjio,%20Basile%20-%20Sexualities%20and%20nationalist%20ideologies%20in%20postcolonial%20Africa.pdf>.

²⁵³ *Id.*, at 10.

²⁵⁴ *Id.*, at 20.

²⁵⁵ Kapyka Kaoma, *Globalizing the Culture Wars: U.S. Conservatives, African Churches, & Homophobia*, Political Research Associates 2009.

²⁵⁶ *Id.*, at 14.

²⁵⁷ *Id.*, at 10.

²⁵⁸ Conference in Kampala, Uganda, March 2009.

²⁵⁹ Southern Poverty Law Center, <http://www.splcenter.org/get-informed/intelligence-files/profiles/scott-lively>.

United States. For example, in 2008, 192 African delegates to the United Methodist Church's General Conference were crucial to the vote supporting a ban on ordaining LGBTI clergy.²⁶⁰

Suggested questions for the delegation from the Government of Cameroon:

- a. What is the basis for the argument that “African culture” rejects homosexuality?
- b. What is the basis for the argument that “African culture” endorses persecution of sexual minorities?

Suggested recommendations for the Government of Cameroon:

- a. Publicly acknowledge that many traditional African cultures acknowledged and tolerated consensual same-sex sexual conduct.
- b. Publicly acknowledge that Article 347a and other forms of discrimination toward sexual minorities in Cameroon are colonial legacies and announce a plan to eradicate those legacies, consistent with the Preamble of the African Charter.

IV. Conclusion

127. The Government of Cameroon routinely discriminates against people on the basis of perceived and actual sexual orientation and gender identity. By outlawing consensual same-sex sexual relations and fostering a culture of impunity for people who abuse, torture, rape, and murder people who are LGBTI, the Government of Cameroon perpetuates hostility, violence, discrimination and stigmatization against its own people. This environment encourages hate crimes against sexual minorities and their defenders and precludes an effective national program to combat HIV/AIDS. Human rights defenders in particular have been threatened, attacked, tortured, and killed as a direct consequence of the public condemnation of sexual minorities and culture of homophobia.

128. The following recommendations are some of many steps this report recommends that the Government of Cameroon should take to address these ongoing human rights violations directed at people in Cameroon who are LGBTI and the human rights defenders who work with and for them:

- a. Immediately repeal Article 347a of the Penal Code and decriminalize consensual sexual relations between adults of the same sex, consistent with regional and international human rights law.
- b. Release all prisoners who are currently detained on the basis of actual or suspected sexual orientation or alleged violations of Article 347a.
- c. Publicly condemn the murder of human rights defender and community health actor, Eric Ohena Lembembe.
- d. Appoint and fund a task force, including members of civil society, to create a National Action Plan for the Elimination of Discrimination Against Sexual Minorities, with benchmark indicators for each component of the National Action Plan.
- e. Fund and implement the above National Action Plan, with the collaboration of civil society organizations and other stakeholders.
- f. Collaborate with civil society organizations and the media to design and implement a comprehensive public sensitization campaign to raise awareness of homophobia as a mainstream social issue and to change societal attitudes about sexual minorities.

²⁶⁰ Kapya Kaoma, *Globalizing the Culture Wars: U.S. Conservatives, African Churches, & Homophobia*, Political Research Associates 2009 pp.1-8, 19-20.

- g. Create and fund a working group, including representatives of organizations serving sexual minorities, to amend the national HIV/AIDS strategic plan to explicitly include comprehensive programming for men who have sex with men and women who have sex with women.
- h. Allow organizations working on issues relating to sexuality, gender, sexual orientation, and gender identity to be certified as legally recognized non-profit organizations.
- i. Mandate that all public health care workers receive training on sexual orientation and gender identity and the rights of LGBTI people, and collaborate with civil society organizations working on LGBTI rights to deliver that training.
- j. Enact legislation to outlaw hate crimes, including crimes motivated by the victim's actual or perceived sexual orientation or gender identity.
- k. Issue a directive to government-owned radio and television stations to cease all programming that condemns or denigrates sexual minorities or that promotes discrimination on the basis of sexual orientation or gender identity.
- l. Require police officers to create and maintain logbooks including every arrest by date and time including the legal and factual basis for each arrest, and make these logbooks available for inspection by an independent civilian review board to take and investigate complaints about law enforcement use of arbitrary detention and torture and cruel, inhuman, and degrading treatment. Audit these logbooks to identify individuals who have been arrested on the basis of actual or perceived sexual orientation or consensual same-sex sexual conduct and ensure the prompt release of those individuals.
- m. Establish an independent civilian review board to take and investigate complaints about law enforcement's use of arbitrary detention and torture and cruel, inhuman, and degrading treatment.
- n. Direct law enforcement to immediately cease all harassment and abuse of people suspected to be sexual minorities.
- o. Remove any officer from public patrol duties who has engaged in harassment or abuse of actual or perceived sexual minorities until such time as the officer receives comprehensive training about the human rights of sexual minorities.