



Cameroon

Alternative Report

responding to the Government of Cameroon's 5th Periodic Report

Submitted by **The Advocates for Human Rights**,
a non-governmental organization in special consultative status

and

The National Observatory for the Rights of LGBT Persons and Their Defenders,
under the coordination of **CAMFAIDS**

for the 62nd Session of the Committee Against Torture
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Reporting Organizations

The Advocates for Human Rights (The Advocates) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates promotes human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. The Advocates collaborates with partner organizations to conduct a range of programs to protect the human rights of LGBT persons around the world. In the United States, The Advocates also provides legal representation to LGBT persons seeking asylum on the basis of sexual orientation or gender identity.

The National Observatory for the Rights of LGBT Persons and Their Defenders is a tool of the UNITY platform created in 2016 by 20 human rights groups in Cameroon and coordinated by CAMFAIDS. Its mission is to gather information on human rights abuses based on actual or presumed sexual orientation and gender identity, to help victims of human rights abuses resolve their claims with the goal of improving the judicial and social environment for LGBT people, and to lead awareness campaigns for the acceptance, tolerance, and respect for human rights for LGBT people and their defenders throughout Cameroon. The group is coordinated by CAMFAIDS and is represented by each of the 20 members organizations of the UNITY platform, who observe the judicial situation in Cameroon and collect information. The member organizations include CERLUDHUS, Lady's Corporation, Trésor Progrès, Affirmative Action, ADEPEV, Enfants d'Afrique, AL CONDOM, ADEFHO, Amis du Cœur, COLIBRI, Avenir Jeune de l'Ouest, Action Contre le SIDA, Jeunes Solidaires de Garoua, ELLES, CAMEF, AAH, COFENHO, SID'ADO, and ACODEVO.

The Cameroonian Foundation For AIDS (CAMFAIDS), headquartered in Yaoundé, Cameroon, is an apolitical, non-sectarian, non-profit association based on volunteerism. It is open to any individual without discrimination on account of sexual orientation, race, creed, ethnic origin, gender, HIV status, political opinion, or disability. The vision of CAMFAIDS is to form a dynamic Cameroonian society based on freedom, democracy, tolerance, and respect for individual rights, including social and economic rights. CAMFAIDS seeks to ensure the implementation of participation strategies taking into account social status and gender. Its mission is: to promote respect for human rights for LGBT people and their defenders, including the right to information and education for victims and other people who are most at risk of human rights violations; to encourage civil, social, economic, educational, cultural, and sport activities for the benefit of those people; to collect information on issues concerning those people and make that information available to the public; to gather all people of good will, without distinction, to search for solutions to problems facing LGBT people and their defenders; to help people who are excluded to restore their emotional environment and thereby contribute to their social reintegration.

I. EXECUTIVE SUMMARY

1. This alternative report, by **National Observatory for the Rights of LGBT Persons and Their Defenders, under the coordination of CAMFAIDS, and The Advocates for Human Rights**, discusses human rights record related to the treatment of lesbian, gay, bisexual, and transgender people in Cameroon. It is based on research conducted in Cameroon in 2017 by the National Observatory under the coordination of CAMFAIDS.
2. Societal and institutional discrimination against LGBT persons is pervasive in Cameroon, which is one of only a few countries in the world that regularly prosecutes people for consensual same-sex conduct.
3. Human rights violations targeting LGBT people in Cameroon extend beyond the threat of criminal prosecution. LGBT people are also vulnerable to violence by community members. In such cases, they are often unable to seek justice out of fear of being treated as criminals themselves. LGBT Cameroonians also face significant difficulties obtaining equal access to health care and education, and are often refused treatment at hospital or expelled from schools because of their sexuality or gender identity.
4. Organizations supporting LGBT rights in Cameroon are also at risk. Beginning in July 2013 and continuing through at least May 2017, the offices of CAMFAIDS in Yaoundé were repeatedly vandalized by angry neighbors who accused CAMFAIDS of “destroying the neighborhood.” Neighbors repeatedly threw rocks and bottles at CAMFAIDS’s offices in an attempt to destroy its security system. People associated with the organization, including several transgender individuals residing at the CAMFAIDS facilities, were physically attacked by community members on their way to and from the center. Moreover, a formal police complaint was filed against CAMFAIDS for the “promotion of homosexuality.” This complaint was filed with the aim of having CAMFAIDS removed from the neighborhood.

II. BACKGROUND AND LEGAL FRAMEWORK

5. Section 347-1 of Cameroon’s new penal code, adopted in July 2016, punishes “sexual relations with a person of the same sex” with a prison term of six months to five years and

a fine of 20,000 to 200,000 CFA (about \$40 to \$400 U.S. dollars). There are currently at least four people who have been convicted of same-sex conduct under this statute and its previous iterations (two people sentenced in August 2015 to four years in prison and two people sentenced to in November 2016 to 20 months), and at least seven in jail awaiting trial on the same charges.

6. The previous iteration of Section 347-1, the law prohibiting consensual same-sex conduct, entered into force by means of a 1972 presidential ordinance, without the usual review by the National Assembly. The law thus violated Cameroon's Constitution, which reserves the power to pass laws affecting "fundamental rights" of Cameroon's citizens to the legislature alone, not the President.¹
7. Furthermore, Article 83 of Cameroon's law on cyber criminality and cybersecurity, adopted in December 2010, punishes anyone who "makes sexual propositions to someone of the same sex" via electronic means with a prison term of up to two years and a fine of 500,000 to 1 million CFA (about \$900 to \$1,800 USD). The punishment is doubled if the proposed sexual acts are actually carried out. In 2016, at least one person in Yaoundé was arrested under this law.
8. Further, LGBT individuals and persons suspected of same-sex conduct face significant cultural barriers to full social integration within Cameroonian society. Homosexuality and transgender status are still taboo within broader Cameroonian culture. Individuals face familial as well as social pressures not to let their orientation be made known to anyone within the larger community. Communities in all parts of Cameroon exert pressure (both violent and non-violent) on LGBT people and persons suspected of same-sex conduct, oftentimes requiring them to flee their homes because of intimidation and harassment.

III. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS AND RECOMMENDATIONS

A. Arbitrary arrest and ill-treatment by the police

9. In its list of issues prior to reporting, the Committee requested that the Government of Cameroon comment on reports that LGBT people are subject to arbitrary arrest and ill-treatment by the police and provide information about the steps taken to address such harassment.²
10. The Government of Cameroon's 5th Periodic Report asserts that "allegations that LGBTI people are still being subjected to arbitrary arrests and ill-treatment by the police are unfounded." The report goes on to assert that because the Criminal Code criminalizes "homosexuality," the arrest of persons suspected of acts of homosexuality . . . can not be arbitrary."³

¹ Law No. 96-06 of 18 January 1996 to amend the Constitution of 2 June 1972, Constitution of the Republic of Cameroon, art. 26.

² List of issues prior to submission of the fifth periodic report of Cameroon, (June 11, 2015), ¶ 29, CAT/C/CMR/QPR/5.

³ Fifth periodic reports of States parties due in 2014: Cameroon, (November 3, 2016), ¶ 163-168, U.N. Doc. CAT/C/CMR/5.

11. CAMFAIDS and the National Observatory have documented at least 53 arrests and prosecutions of LGBT people or those suspected of same-sex conduct since 2005. At least 11 people are currently in custody on the basis of Section 347-1, with four serving out sentences on charges of consensual same-sex conduct and at least seven in pre-trial detention in the central prison in Yaoundé. Recent arrests include the following:
12. In January 2017, a gay man who went to the authorities to report a physical attack was blackmailed by a deputy police commissioner and was jailed because he was unable to pay. Although the man was eventually released, when news of the ordeal reached his landlord, he was forced to leave his home.
13. People are arrested based solely on having an appearance that is not gender-conforming. For example, in April 2017, two transgender individuals were repeatedly arrested in the Mensdong, Melen, and Nkolmesseng areas of Yaoundé solely because of their transgender appearance.
14. The organizations have documented cases of arbitrary arrest and abuse by police and gendarmes of detainees accused of consensual same-sex conduct, including the following:
 - In early 2017, the local unit of the military in the Mendong neighborhood in Yaoundé arrested two individuals simply because they appeared to be transgender.
 - On April 21, 2017, a prosecutor for the court in Yaoundé humiliated and revealed to other inmates the sexual orientation of a man in custody, thus subjecting him to physical and verbal abuse in the jail without the presence of an attorney.
 - In July 2017, in the Mimboman neighborhood of Yaoundé, a police officer physically attacked, stripped, and verbally berated an individual he had lured through an LGBT dating website.
 - In 2016, three young dancers were arbitrarily arrested and then tortured and humiliated while detained at the Nkolmesseng gendarmerie.⁴
 - In 2016 in the central prison of Kodengui, two prisoners were chained at their hands and feet because they were gay.⁵
15. Police also violate Cameroon's own Code of Criminal Procedure in the manner in which they arrest persons suspected of homosexuality. Section 347-1 applies only to individuals caught in the act of same-sex sexual conduct, but most individuals are arrested on the basis of mere suspicion; often without arrest warrants; and at all times of day and night, rather than during the hours in which arrest warrants can legally be enforced. Despite the fact that human rights violations occur during arrests and pretrial detention, many people arrested for homosexuality are prosecuted and convicted

B. Current legislation

16. The Committee also requested information on current legislation regarding consensual relations between adults of the same sex.⁶

⁴ Email communication with CAMFAIDS, 9 October 2017, on file with The Advocates for Human Rights.

⁵ Email communication with CAMFAIDS, 9 October 2017, on file with The Advocates for Human Rights.

17. The Government of Cameroon responded that article 347 (*bis*) of the Criminal Code calls for a punishment of six months to five years and a fine of 20,000 to 200,000 francs for “any person who has sex with a person of his sex.”⁷
 18. As noted in paragraph 5, the new Penal Code incorporates this previous provision and continues to criminalize consensual relations between adults of the same sex. As further noted in the same paragraph, there are currently at least four people who have been convicted of same-sex conduct under this statute and its previous iterations (two people sentenced in August 2015 to four years in prison and two people sentenced to in November 2016 to 20 months), and at least seven in jail awaiting trial on the same charges.
- C. Measures taken to protect those defending the rights of LGBTI persons and to punish the perpetrators of acts of violence and intimidation against them.**
19. The Committee further requested information on measures taken to protect people defending the rights of LGBTI people and to punish the perpetrators of acts of violence and intimidation against them.⁸
 20. In its response, the Government observed that articles 275 to 290 of the Penal Code criminalize “attacks on physical integrity,” and suggested that those articles are available to punish anyone for “any act of violence committed for the prejudice of others.” The Government further added that articles 301 and 302 criminalize threats, and asserted that “All victims of violence or threats, including LGBTI persons, can freely file a complaint” for reparations before the courts.⁹
 21. LGBT people in Cameroon are often denied justice on the basis of their sexual orientation or gender identity. When they are the victims of crime, they are often reluctant to report the crime or seek police protection out of fear that this could open the door to prosecute them under Section 347-1. As discussed above, LGBTI individuals face arrest for simply appearing to be gender-non-conforming. As a result, they do not feel safe reporting such attacks to law enforcement for fear of being arrested themselves. As discussed in paragraph 12, one gay man was arrested after he reported acts of violence against him. Such incidents are not uncommon. More frequently, however, LGBTI persons never report acts of violence to the police for fear of being arrested on suspicion of violation of Section 347-1.
 22. The organizations documented an August 2016 case of a young gay man who was physically attacked and afterward was forced by his attacker to reveal his sexuality to a crowd of people nearby at a university in Yaoundé. He was driven by the crowd to a neighborhood police outpost and was arrested and jailed. He was denied access to an attorney and the right to defend himself in court.

⁶ List of issues prior to submission of the fifth periodic report of Cameroon, (June 11, 2015), ¶ 29, CAT/C/CMR/QPR/5.

⁷ Fifth periodic reports of States parties due in 2014: Cameroon, (November 3, 2016), ¶ 163-168, U.N. Doc. CAT/C/CMR/5.

⁸ List of issues prior to submission of the fifth periodic report of Cameroon, (June 11, 2015), ¶ 29, CAT/C/CMR/QPR/5.

⁹ Fifth periodic reports of States parties due in 2014: Cameroon, (November 3, 2016), ¶ 163-168, U.N. Doc. CAT/C/CMR/5.

23. Several human rights organizations based in Cameroon have found that many gay men and lesbians in Yaoundé and Douala have been subjected to blackmail by persons seeking to exploit their vulnerability under Cameroonian law.
24. CAMFAIDS has documented multiple examples of harassment and intimidation of LGBT people or those suspected of same-sex conduct since 2005. These examples include familial pressures, unwelcoming neighborhoods, and physical intimidation and beatings. Recent examples include the following:
 - Seven people (ages 19-36) are currently living at CAMFAIDS's facilities because their families have rejected them.
 - In June 2017, after being the victim of a homophobic attack, a 34-year-old gay man was expelled from his home because he had "perverted" the neighborhood.
 - In May 2017, five people from CAMFAIDS were physically attacked by neighbors who called them "devil children."
 - In January 2017, a 34-year-old gay man working with the organization Affirmative Action on HIV education programs in the city of Ebolowa was assaulted because he would not loan a "friend" money. This "friend" attacked him with a piece of wood, telling others that the man proposed to have sex with him and touch his private parts. He was jailed in the Third District police station for three days.
 - In May 2017, a 36-year-old gay man who returned to live with his family was rejected by his brothers—who had previously attacked him with a machete—because he was "gay and a druggie." Out of despondence, the man dumped out his HIV medication and crushed it in front of everyone, saying he would rather die than live with a family who would wish him harm because of his sexuality.
 - In July 2017, a gay man in Yaoundé was attacked at a bar frequented by the LGBT community. The assailants told bystanders that the man was a homosexual who had had sex with their little brother.
 - In July 2017, a 24-year-old gay man was attacked by a father of a friend, claiming that the man was training his son to be gay.
25. In addition to the specific examples cited above, Cameroonian society often views pedophilia as a manifestation of homosexuality (a misconception reflected in reports suggesting that one can be "trained" to be gay). This can be seen in reports of children being accosted and sexually assaulted by adults, reports which are often linked to homosexuality.
26. Organizations in Cameroon that help LGBT persons are often the victims of harassment and threats from private citizens. The staff of these organizations and the people they serve live in fear for their safety and wellbeing and often do not report these incidents to the police because they believe the police will not protect them.
27. The organizations documented a May 2017 incident in which LGBT rights defenders, one of whom is transgender, were attacked with syringes of an unknown substance at a hotel in Yaoundé. Although the attack was not successful, the victims were left traumatized and there is no documentation of any assistance from the police.

28. As documented in paragraph 4, CAMFAIDS and its staff and guests have endured physical attacks and threats, and authorities have not provided any protection or support.

D. Investigation into the murder of Eric Ohena Lembembe

29. The Committee also requested information on the specific measures taken in connection with the investigations into the 2013 murder of Eric Ohena Lembembe, the executive director of the Cameroonian Foundation for AIDS.¹⁰

30. The Government responded by noting that the public prosecutor requested the opening of a judicial investigation, but that the investigation “resulted in a dismissal order.”¹¹

31. The Government has never expressed concern that the torture and murder may have been based on his work as a human rights defender working on behalf of LGBT rights. Speaking before the UN Human Rights Council during Cameroon’s Universal Periodic Review soon after his murder in 2013, the Cameroonian Government attempted to sully his memory, stating, “[T]here’s no proof that this gentleman was a victim because of his sexual orientation. He is a man like any other. He might have committed crimes and he was the victim of a settlement of scores which was all too quickly attributed to the Cameroon government. . . . So I reject this alleged case of this young man who allegedly was found dead as a result of his homosexuality. Distinguished Ambassadors, ladies and gentlemen, these are just things that have been made up. Look at the details of this person’s life and you will understand why he died.”¹²

32. In light of this official government position, it is not surprising that the investigation was cursory and counter-productive. Reports show that after one year, the investigation included several irregularities. For example, officials did not take photographs or fingerprints at the scene of the crime, and the medical certificate indicating the nature of death did not mention the burns and other injuries visible on the body. After one year, the investigating judge had summoned only three of the victim’s relatives, and they report facing intimidation by authorities during the course of the investigation. Moreover, several of the victim’s colleagues and family members were placed into police custody at the beginning of the investigation.¹³

E. Suggested questions

33. What is the nature of the evidence that is sufficient to arrest a person for a suspected violation of Section 347-1? Is physical appearance a sufficient basis for arrest? What does the Government do to ensure that individuals are arrested not for their actual or presumed sexual orientation or gender identity, but because there is evidence that they have committed a crime?

¹⁰ List of issues prior to submission of the fifth periodic report of Cameroon, (June 11, 2015), ¶ 29, CAT/C/CMR/QPR/5.

¹¹ Fifth periodic reports of States parties due in 2014: Cameroon, (November 3, 2016), ¶ 163-168, U.N. Doc. CAT/C/CMR/5.

¹² Amy Bergquist, “*Look at the details of Eric Ohena Lembembe’s life and you will understand why he died,*” The Advocates Post, Sept. 23, 2013, <https://theadvocatespost.org/2013/09/23/look-at-the-details-of-eric-ohena-lembembes-life-and-you-will-understand-why-he-died/>, last visited Oct. 9, 2017.

¹³ FIDH, *Cameroon: Assassination of Eric Ohena Lembembe, the investigation remains at a standstill*, July 11, 2014, <https://www.fidh.org/en/region/Africa/cameroon/15738-cameroon-assassination-of-eric-ohena-lembembe-the-investigation-remains-at>, last visited Oct. 9, 2017.

34. What investigations has the state party taken, if any, to look into allegations of police violence against LGBT persons while in custody? Please describe the nature of the investigations and the findings.
35. What steps is the state party taking to ensure that police and other detention officials do not commit acts of violence against LGBT persons while in custody?
36. In how many cases has the government used the chapter of the Penal Code entitled “attacks on physical integrity” to hold persons accountable for attacks against LGBT persons? What has the government done to ensure that LGBT persons will not be arrested under Section 347-1 if they report such acts?
37. In how many cases has the government used articles 301 and 302 prohibiting threats to hold individuals accountable for making threats against LGBT persons? What has the government done to ensure that LGBT persons will not be arrested under Section 347-1 if they report such acts?
38. Please describe all of the steps taken by the investigator to investigate the murder of Eric Ohena Lembembe, and the role the victim’s family and colleagues played in the investigation. Was there evidence that Mr. Ohena Lembembe was tortured before his murder? Why was the inquiry dismissed? What steps has the state party taken to ensure that individuals are not allowed to torture and murder human rights defenders with impunity? Why did the Cameroonian Government, only two months after the murder, deliver a statement on the floor of the Human Rights Council that seemed to pre-judge the results of the investigation?

F. Suggested recommendations

39. The Government of Cameroon should:

- *Release all prisoners who are currently detained on the basis of sexual orientation or gender identity.*
- *Repeal Section 347-1 and Article 83.*
- *Until Section 347-1 and Article 83 are repealed, instruct the Ministry of Justice to issue a directive to the general prosecutor to cease arrests and prosecutions under that law.*
- *Enact new legislation that would grant special legal protections for human rights defenders, including LGBT rights defenders.*
- *Until human rights defenders are granted legal protections, encourage the General Delegate for National Security to sign an order allowing organizations working in the area of health care for LGBT people to be able to freely operate in order to meet the goals set by the government in the fight against HIV and other STDs.*
- *Instruct the General Delegate for National Security to issue clear and public orders that police violence against people on the basis of sexual orientation or expression of gender identity will not be tolerated.*
- *Ensure that the General Delegate for National Security and the Secretary of State in charge of the police force introduce sensitivity and human rights training related to*

sexual orientation and gender identity for police and other security officers at all levels.

- *Ensure that the Ministry of Justice instructs general prosecutors to investigate and prosecute police and security officers who commit human rights abuses against LGBT people, their defenders, and other detainees.*
- *Establish an independent police oversight mechanism to allow civilians to file complaints against police and other security officers without fear of retribution.*
- *Direct the police and other security officers to respect the Code of Criminal Procedure in carrying out arrests.*
- *Investigate arbitrary arrests based on sexual orientation or gender identity and adopt necessary legislation to eliminate these practices.*
- *Encourage the General Delegate of National Security and the Secretary of State in charge of the police force to issue instructions to the police and other security officers to investigate alleged crimes directed against LGBT persons, without using the complaint as the basis to initiate proceedings against the complainant on grounds of Section 347-1.*
- *Take steps to ensure adequate protection of human rights defenders who help LGBT persons.*
- *Investigate violence against human rights defenders who help LGBT persons.*
- *Reopen the investigation into the murder of LGBT rights defender Eric Ohena Lembebe and bring the perpetrators to justice.*
- *Take steps to ensure a favorable environment for the work of human rights defenders.*
- *Encourage non-violence toward, and protection of, human rights defenders and their attorneys, regardless of sexual orientation.*