

# **Human Rights Violations against Lesbians, Bisexual Women and Transgender People in Cameroon**

**Submission to the Committee on the Elimination of  
Discrimination against Women**

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## **I. Right to Non-discrimination and Equal Protection of the Law Under Articles 1, 2 and 5 of the Convention**

The Convention of the Elimination of All Forms of Discrimination against Women (hereinafter CEDAW or the Convention) guarantees the right to non-discrimination and equal protection under the law and stipulates state obligations in this regard. In this manner, Article 2 of the Convention obligates States to “condemn discrimination against women in all its forms [and] agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women.” Article 1 defines discrimination as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women...of human rights and fundamental freedoms.”

The Committee on the Elimination of Discrimination against Women (CEDAW Committee) has clarified that the Convention covers sex-based as well as gender-based discrimination. In its General Recommendation No. 28, the Committee notes that “[a]lthough the Convention only refers to sex-based discrimination, interpreting article 1 together with articles 2(f) and 5(a) indicates that the Convention covers gender-based discrimination against women.”<sup>1</sup> In this connection, the Committee defines gender as, “socially constructed identities, attributes and roles for women and men and society’s social and cultural meaning for these biological differences resulting in hierarchical relationships between women and men and in the distribution of power and rights favouring men and disadvantaging women.”<sup>2</sup>

The Convention requires States to take an active role in changing social attitudes, noting in its article 5(a) that States parties must “modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.” The Committee has helpfully explored the content of the prohibition of discriminatory stereotyping, including in particular by looking at the impact on women’s access to justice where their behavior deviates from that which is expected of their gender.<sup>3</sup>

It is essential that this gender analysis be applied in the context of discrimination against lesbian and bisexual women and transgender people in Cameroon. Gendered stereotypes often confuse statistical realities (e.g. “most adult women in Cameroon are married to men by age 40”) with moral imperatives (e.g. “a good woman must be married to a man by age 40”), justifying discrimination and abuse against those who do not conform to the stereotyped gender roles. Such discriminatory stereotyping has an impact on all women, but is particularly damaging to those who visibly do not conform to prevailing gender norms or expressions, such as—for example—trans individuals, and those who are thought to be lesbian or bisexual.

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<sup>1</sup> CEDAW Committee, “General Recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women,” CEDAW/C/GC/28, 16 December 2010, para. 5.

<sup>2</sup> Ibid.

<sup>3</sup> See CEDAW Committee, “Karen T. Vertido v. The Philippines, Communication No. 18/2008, Views adoption 16 July 2010,” CEDAW/C/46/D/18/2008, 1 September 2010.

In this connection, the Committee may wish to apply and expand upon the analysis done by the Special Rapporteur on the human rights to safe drinking water and sanitation in her report on the impact of stigma on equal access to rights.<sup>4</sup> This report identifies stigma as “closely linked to the body as a site for the ‘normal’ and the ‘different’ and as a vehicle of contagion, especially in terms of sexuality...” and notes that “stigma is frequently attached to activities that are considered ‘immoral’, ‘detrimental to society’ or ‘dirty’.”<sup>5</sup>

These reflections are directly applicable to those seen as transgressing gender norms in Cameroon, where lesbian and bisexual women, as well as transgender individuals, routinely are distrusted by the justice system as witnesses of crimes, or arrested or convicted because of who they are, what they look like, or because they attempt to assert their bodily autonomy or right to privacy. In Cameroon, women in same-sex relationships are, for example, at times thought to be “witches,” thus stigmatizing their private lives as evil—often leading to violence or ostracism--because they do not adhere to prevailing gender roles.<sup>6</sup> This situation is counter to the obligations contained in CEDAW article 2, read in conjunction with articles 2 and 5(a).

The International Gay and Lesbian Human Rights Commission (IGLHRC), CAM-FAIDS and the Lady’s Cooperation suggest that the Committee ask the Cameroonian government the following questions:

1. How does the government ensure equal treatment under the law for women and girls who do not conform to stereotypes about women’s gender-based roles in Cameroon?
2. What policies does the government have in place to ensure that discriminatory stereotypes about women’s sexuality and gender expression, and the resulting stigma, are overcome, in accordance with its obligations under article 5(a) of the Convention?

## **II. Articles 1 and 3 safety and security of lesbians and bisexual women, and transgender persons in Cameroon**

The Convention requires states to protect women and girls against gender-based violence. The CEDAW Committee has noted that gender-based violence, while not explicitly mentioned in the Convention, is, in fact, a form of discrimination in that it “impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions.”<sup>7</sup> States are obviously responsible for preventing gender-based violence—including violence based on discriminatory stereotypes—carried out by its own agents. It may, however, also be responsible for private acts “if [the State] fail[s] to act with due diligence to prevent violations of rights or to investigate and punish [them].”<sup>8</sup>

The Special Rapporteur on Violence against Women noted the link between gender-based violence and discriminatory stereotyping when she observed in a 2012 report to the Human

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<sup>4</sup> See Special Rapporteur on the human right to safe drinking water and sanitation, “Stigma and the realization of the human rights to water and sanitation,” Human Rights Council, 2 July 2012, A/HRC/21/42.

<sup>5</sup> *Ibid*, para. 13.

<sup>6</sup> See video testimony “A lesbian imprisoned in Cameroon, Esther’s story” at <http://www.youtube.com/watch?v=CzApATbfVHg> (accessed on Jan 2, 2014).

<sup>7</sup> CEDAW Committee, “CEDAW General Recommendation No. 19,” contained in Document A/47/38, 1992, para. 7.

<sup>8</sup> *Ibid*, note 1 at para. 9.

Rights Council that lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) people are targeted for violence “because they do not conform to stereotypes of gender sexuality and/or identity, thus becoming victims of homophobic crimes.”<sup>9</sup> This analysis should be applied to the Committee’s current consideration of the situation in Cameroon with regard to gender-based violence and violence against women.

In fact, the Committee has already expressed its concern with the situation of violence against women and girls in Cameroon. In 2009, the Committee expressed “concern at the high rate of violence against women and girls” and urged Cameroon to adopt an existing draft law on the “prevention and punishment of violence against women and gender-based discrimination” as well as devote “priority attention to combating violence against women and girls, in particular domestic violence.”<sup>10</sup> The Committee further expressed its concern that gender-based violence appears to be socially legitimized by a culture of silence and impunity and called upon the State to raise public awareness that all forms of violence against women constitute discrimination under the Convention.<sup>11</sup>

Anti-violence initiatives in the private sphere are particularly important for lesbian and bisexual women and girls as well as transgender individuals. According to field research published in a 2010 report by Cameroonian and International NGO’s, it was more likely for women to be controlled and punished for same-sex relationships in the family sphere than in the public sphere.<sup>12</sup>

Organizations working with lesbian and bisexual women, and transgender individuals, in Cameroon note that this pattern has not changed much since the latest examination of Cameroon by the CEDAW Committee. On the contrary, CAM-FAIDS, for example, has documented several cases of women who are suspected of being lesbian or bisexual by their families and suffer violence and exclusion as a result. In some cases, exclusion or violence leads to the involvement of the criminal justice system, with those suspected of same-sex conduct being subject to arrest or detention.<sup>13</sup>

IGLHRC, CAM-FAIDS, and the Lady’s Cooperation suggest that the Committee ask the Cameroonian government the following questions:

1. How does the government discharge its obligation to protect all women against gender-based violence in private homes, including lesbian and bisexual women and girls, and transgender individuals?
2. Since the government last reported to the CEDAW Committee, how has it prioritized overcoming the silence and impunity that surrounds gender-based violence in Cameroon?

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<sup>9</sup> Rashida Manjoo, “Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo” A/HRC/20/16, May 23, 2012, para. 72.

<sup>10</sup> CEDAW Committee, “Concluding Observations of the Committee on the Elimination of Discrimination against Women,” CEDAW/C/CMR/CO/3, 10 February 2009, para. 27

<sup>11</sup> *Ibid.*

<sup>12</sup> *Criminalizing Identities Rights Abuses in Cameroon based on Sexual Orientation and Gender Identity, Alternatives Cameroun*, ADEFHO, Alternatives Cameroun, Human Rights Watch, International Gay and Lesbian Human Rights Commission (IGLHRC), November 2010 at <http://www.hrw.org/sites/default/files/reports/cameroon1010web.pdf> (accessed on January 2, 2014).

<sup>13</sup> See below, Section III.

### **III. Articles 2 and 10: The Criminalization of Lesbian, Bisexual and Transgender People in Cameroon, and its affect on rights to life, health, non-discrimination**

The CEDAW Convention protects the right to non-discrimination, also in the areas of bodily integrity, life, and health. This right is circumvented where the State adopts laws that punish women and girls for behavior that breaks with prevailing gender stereotypes, such as, for example, laws criminalization consensual adult sex outside marriage. Such laws have negative effects on all women, including monogamous heterosexual married women, because laws that criminalize women who have sex outside marriage—whether with women or men—derive from and perpetuate a notion of women as dependent on men, and marriage as the main source of life satisfaction for women.

In 2009, the CEDAW Committee noted a “lack of progress [in Cameroon] in the elimination of discriminatory laws” specifically with respect to sex-discriminatory laws and expressed “[concern] at the lack of priority given to comprehensive legal reform to eliminate sex-discriminatory provisions”<sup>14</sup> The Committee also called on the Cameroonian government to “work effectively with the parliament to ensure that all discriminatory legislation is amended or repealed.”<sup>15</sup>

Since 2009, the State has failed to repeal the discriminatory legislation, specifically with respect to laws that discriminate on the basis of sex, gender and sexual orientation. Article 347 bis of the Cameroon Penal Code punishes “sexual relations with a person of the same sex” with a prison term of six months to five years and with a fine of 20,000 to 200,000 CFA francs [US\$40 to \$400].<sup>16</sup> The criminalization of same-sex sexual conduct in Cameroon provides an example of an overt and damaging connection between discrimination on the basis of sex and gender with that of sexual orientation. This law has a disproportionate effect on women and gender non-conforming individuals, denying them equal enjoyment of rights. Moreover, the punishment of sexuality perpetuates discrimination against people who engage in, or are thought to engage in, the criminalized conduct, with no impact on any purported public health or so-called public moral objectives.

CAM-FAIDS, Lady’s Cooperation, and other civil society organizations have documented many cases where people are arrested on the basis of their gender presentation or actual or perceived sexual orientation, as same-sex sexual conduct is imputed to those who do not look “feminine” or “masculine” enough, with police officer and justice officials using the law as a shield to justify rights-violating practices. Family members and other members of the community refer to

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<sup>14</sup> CEDAW Committee, “Concluding Observations of the Committee on the Elimination of Discrimination against Women,” CEDAW/C/CMR/CO/3, 10 February 2009, para. 7

<sup>15</sup> *Criminalizing Identities Rights Abuses in Cameroon based on Sexual Orientation and Gender Identity, Alternatives Cameroun*, ADEFHO, Alternatives Cameroun, Human Rights Watch, International Gay and Lesbian Human Rights Commission (IGLHRC), (November 2010) at <http://www.hrw.org/sites/default/files/reports/cameroon1010web.pdf> (accessed on January 2, 2014)

<sup>16</sup> Code Penal du Cameroun (Cameroon Penal Code), Article 347 bis. Original: “Homosexualité. Est puni d’un emprisonnement de six mois à cinq ans et d’une amende de 20.000 à 200.000 francs toute personne qui a des rapports sexuels avec une personne de son sexe.”

the law to blackmail or harass those suspected of being lesbian, bisexual, or trans, to settle private scores, often without proof of actual sexual relations and without procedural guarantees. Many are ostracized by their families or suffer physical abuse at the hands of family members. Several of these cases are documented in the 2013 Human Rights Watch report, jointly authored with CAMFAIDS, Alternatives Cameroon, and ADEFHO, “Guilty by Association: Human Rights Violations in the Enforcement of Cameroon’s Anti-Homosexuality Law.”<sup>17</sup>

The stigma related to being lesbian, bisexual or transgender, and the discrimination and abuse it carries with it, also has a negative effect on Cameroon’s HIV prevention. Though statistics are not kept on this issue, it is clear that numerous gender non-conforming women in Cameroon are compelled—or in some cases forced—to marry men, to comply with family expectations to marry and have children, to avoid violence, and/or in an attempt to hide their sexual orientation or gender identity. These women are all but invisible in the government’s 2011-15 plan to fight HIV/AIDS, which, insofar as it mentions sexual orientation at all, refers to men who have sex with men, or to the mere fact that homosexuality exists.<sup>18</sup>

IGLHRC, CAM-FAIDS and the Lady’s Cooperation suggest that the Committee ask the Cameroonian government the following questions:

1. What is the government’s plan to ensure that Cameroon’s Penal Code is in line with international human rights obligations on the right to non-discrimination?
2. How does the government take into account the experiences and particular vulnerabilities of lesbian and bisexual women as well as trans people in its work to prevent the spread of HIV and AIDS and to ensure equal access to treatment for all?

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<sup>17</sup> Human Rights Watch, *Guilty by Association: Human Rights Violations in the Enforcement of Cameroon’s Anti-Homosexuality Law*, March 2013, at <http://www.hrw.org/reports/2013/03/21/guilty-association> (accessed on January 2, 2014).

<sup>18</sup> National AIDS Control Committee, *Plan Stratégique Nationale de Lutte contre le VIH, le SIDA, et les ITS 2011-2015*, Yaoundé, August 2010, see for example pp. 24 and 28.