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MAISON DES DROITS DE L'HOMME CAMEROUN



# CAMEROON

## HOMOPHOBIA AND VIOLENCE AGAINST DEFENDERS OF THE RIGHTS OF LGBTI PERSONS

International Fact-Finding Mission Report



February 2015

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The Observatory  
CAMEROON: HOMOPHOBIA AND VIOLENCE AGAINST DEFENDERS OF THE RIGHTS OF LGBTI PERSONS

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## ACRONYMS

<b>ACAFEJ</b>	Cameroonian Association of Women Lawyers
<b>ACHPR</b>	African Commission on Human and Peoples' Rights
<b>ACODEVO</b>	<i>Association des Couches défavorisées et Vulnérables de l'Océan</i> (Association for impoverished and vulnerable communities of the coastal region)
<b>ADEFHO</b>	Association for the Defence of Homosexuals
<b>ADEPEV</b>	Action for Development and Fullfilment of Vulnerable People
<b>AIDS</b>	Acquired Immunodeficiency syndrome
<b>AMSHeR</b>	African Men for Sexual and Health Rights
<b>ARDHIS</b>	Association for the recognition of the rights of the homosexual and trans-sexual people to immigration and stay
<b>ASSOAL</b>	Association of Booklovers Cameroon
<b>AU</b>	African Union
<b>BBC</b>	British Broadcasting Corporation
<b>CAMEF</b>	Cameroon Association for Empowerment Outreach Programs
<b>CAMFAIDS</b>	Cameroonian Foundation for AIDS
<b>CAMNAFAW</b>	Cameroon National Association for Family Welfare
<b>CNDA</b>	French National Court for Right of Asylum
<b>CNDHL</b>	National Commission for Human Rights and Freedoms
<b>EU</b>	European Union
<b>FIDH</b>	International Federation for Human Rights
<b>Franc CFA</b>	Franc of the African Financial Community
<b>HIV</b>	Human Immunodeficiency Virus
<b>HRW</b>	Human Rights Watch
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>LGBTI</b>	Lesbian, gay, bisexual, transgender and intersexual persons
<b>LSDH</b>	Senegalese Human Rights League
<b>MDHC</b>	House of Human Rights in Cameroon
<b>MIREX</b>	Ministry of External Relations
<b>MSM</b>	Men who have sex with men
<b>NGO</b>	Non-Governmental Organisation
<b>Observatory</b>	Observatory for the Protection of Human Rights Defenders
<b>OHCHR</b>	Office of the United Nations High Commissioner for Human Rights
<b>OMCT</b>	World Organisation Against Torture
<b>PAEMH</b>	Supervision of Sexual Minorities Project
<b>PRODHOP</b>	Solidarity for the Promotion of Human and Peoples' Rights
<b>RECODH</b>	Cameroon Network of Human Rights Organisations
<b>REDHAC</b>	Human Rights Defenders Network in Central Africa
<b>RFI</b>	<i>Radio France internationale</i>
<b>RJC</b>	Cameroon Youth Rally
<b>Sid'Ado</b>	Adolescents against AIDS
<b>STI</b>	Sexually Transmitted Infections
<b>UN</b>	United Nations
<b>UPR</b>	Universal Periodic Review

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# I. INTRODUCTION

To date, homosexuality is still criminalised in at least 79 countries around the world. The Office of the United Nations High Commissioner for Human Rights said in no uncertain terms that: “the criminalisation of private, consensual sex between adults of the same sex breaches a State’s obligations under international law, including the obligations to protect individual privacy and to guarantee non-discrimination. [...] Arresting or detaining individuals on the basis of their sexual orientation or same-sex sexual conduct is likewise prohibited by the guarantee against arbitrary detention.”<sup>1</sup>

As a result of repressive laws, and a lack of legal protection against discrimination based on sexual orientation and gender identity and against homophobic political, press and religious statements, in a great many countries, lesbian, gay, bisexual, transgender and intersexual (LGBTI) persons, are subjected to assaults, threats to their physical integrity, stigmatisation and discrimination.

Any person – whether a lawyer, activist, academic, intellectual, religious leader, trade unionist, journalist, community leader, public officer or a member of an NGO or an association – who peacefully protests against violations of the rights of LGBTI persons by referring to international, regional or national human rights standards are also targeted and, depending on the country, their actions are criminalised and their freedom of speech, association and assembly impeded. LGBTI rights defenders fall into the category of the most vulnerable human rights defenders.

In response to this grim situation, the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT), via their joint programme, the Observatory for the Protection of Human Rights Defenders (the Observatory) organised a fact-finding mission to Cameroon to assess the situation of defenders of the rights of LGBTI persons.

Cameroon is one of the 38 African countries that criminalise homosexuality. It is known for prosecuting, sentencing and incarcerating inordinately large numbers of persons for “consensual sexual relations between persons of the same sex” on the basis of Article 347 bis of the Cameroon Penal Code. FIDH and OMCT member and partner organisations in Cameroon alerted the Observatory several times about cases of violations of the rights of LGBTI rights’ defenders. The worst of violations can be traced to the evening of 15 July 2013, when Eric Ohena Lembembe, journalist and Executive Director of the Cameroonian Foundation for AIDS (CAMFAIDS) working to defend LGBTI rights was found dead in his home in Yaoundé.

The Observatory mission was in Cameroon from 6 to 16 January 2014. It received assistance from the *Maison des droits de l’Homme au Cameroun* (MDHC), the Human Rights Defenders Network in Central Africa (REDHAC) and the African Men for Sexual and Health Rights (AMSHer). The Observatory’s delegation was composed of Assane Dioma Ndiaye (Senegal), attorney at law at the Dakar Bar and President of the *Ligue sénégalaise des droits humains* (LSDH – Senegalese league for human rights), an FIDH member organisation; Berry Didier Nibogora (Burundi), lawyer in charge of the AMSHer programme Law, Politics, Advocacy and Human Rights, and Catherine Delanoë-Daoud (France), attorney at law at the Paris Bar, regularly consulted by the *Association pour la reconnaissance des droits des personnes homosexuelles et transsexuelles à l’immigration et au séjour* (ARDHIS – Association for the recognition of the Rights of the homosexual and trans-sexual people to immigration and stay) on defending the interests of LGBTI persons before the *Cour nationale du droit d’asile* (CNDA – national court for right of asylum) in France. The delegation went to Douala, Limbé and Yaoundé and met representatives of the civil society working in the Kribi region. This report is based on the information collected during the mission and the following months, until November 2014.

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1. See “Born Free and Equal, Sexual Orientation and Gender Identity in International Human Rights Law” 2012 Report by the United Nations Office of the High Commissioner for Human Rights. Available on line: <http://www.ohchr.org/Documents/Publications/BornFreeAndEqualLowRes.pdf>

> Map of Cameroon



*Our organisations wish to thank all the persons who contributed to this fact-finding mission, especially the Cameroonian Foundation for AIDS (CAMFAIDS) for its support provided in organising the mission.*

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The fact-finding mission met with:

**Cameroonian authorities:** Ms Hélène Gallega, Director of Human Rights at the Ministry of Justice; Mr Victor Ndoki, Secretary General of National Security, and his closest collaborators

**National Commission for Human Rights and Freedoms (CNDHL):** Dr. Chemuta Divine Banda, President of the CNDHL and his closest collaborators in charge of the sub-commissions

**Foreign embassies:** Delegation of the European Union; Embassies of France and United States, the British and Canadian High Commissions

**Human rights associations and networks:** Human Rights Defenders Network in Central Africa (REDHAC), Alternatives-Cameroun, ADEFHO Association for the Defence of Homosexuals (Association de défense des homosexuels), SID'ADO Adolescents against AIDS (SID'ADO), Supervision of Sexual Minorities Project (PAEMH), AIDES ACODEV Cameroon; Cameroon Association for Empowerment Outreach Programs (CAMEF); *Association des couches défavorisées et vulnérables de l'Océan* (ACODEVO); Cameroon Foundation for AIDS (CAMFAIDS); ADEPEV Association; Ladies' Corporation Association; Humanity First; Affirmative Action; Cameroon Network of Human Rights Organisations (RECODH); Cameroon Association of Women Lawyers (ACAFEJ)

**Health / social NGOs:** Cameroon National Association for Family Welfare (CAMNAFAW); Care International Cameroon

**Journalist:** Alex Gustave Azebaze, former President and honorary adviser to the National Union of Journalists of Cameroon

**Human Rights Commission of the Cameroon Bar Association:** Joseph Claude Billigha, lawyer

**Lawyers defending LGBTI activists and persons:** Alice Nkom and Walter Atoh, lawyers

**Churches:** Spokesman for the Bishop of Yaoundé

The purpose of the mission was to analyse the social and legal aspects of protection for human rights defenders in Cameroon, especially LGBTI rights' defenders, to collect information on violations of the rights of LGBTI rights' defenders and to examine reactions from the political, administrative and judicial circles.

The delegation referred to the 1998 United Nations Declaration on the protection of Human Rights Defenders and the "operational definition" of human rights defenders commonly used by the Observatory, i.e. "any individual, group and organs of society that, in compliance with the international instruments on the protection of human rights, acts on behalf of individual or groups of persons to the promotion and realisation of the universally recognised human rights and fundamental freedoms, individually or in association with others". In reprisal for their actions, the human rights of the defenders are often violated through threats, physical violence, enforced disappearances, extra-judicial executions, slander campaigns, illegal surveillance, judicial harassment and arbitrary detention although their actions are legal and legitimate and, furthermore are protected by international human rights law. By virtue of international and regional agreements on the protection of human rights, the States are not only obliged to protect defenders but also to provide them with an enabling environment for promoting their cause and defending the victims.

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## II. THE WORK ENVIRONMENT OF DEFENDERS OF LGBTI PERSONS' RIGHTS

### 1. The legal framework

#### 1.1. Cameroon's international and regional commitments

By ratifying the International Covenant on Civil and Political Rights (ICCPR) in 1984, the Cameroonian authorities pledged to respect and protect the rights to freedom of association, expression and assembly that are also guaranteed in the Universal Declaration of Human Rights. These international instruments include the principle of non-discrimination, the right to privacy, a ban on arbitrary arrests and detentions and the right to a fair trial that defenders, like all other individuals, should be entitled to when exercising their function.

By adhering to these standards, Cameroon recognised the right and responsibility of individuals, groups and organs of society to promote and protect universally recognised human rights and fundamental freedoms, as stipulated in the 1998 UN Declaration on the protection of human rights defenders<sup>2</sup>. Under international law, Cameroon has the obligation to protect the rights of human rights defenders, especially defenders of LGBTI rights, under the specific watch of the United Nations Special Rapporteurs on the situation of human rights defenders and on the rights to freedom of peaceful assembly and of association.

At the regional level, Cameroon is bound by the provisions of the African Charter on Human and Peoples' Rights, which it ratified in 1989. This Charter obliges the States Party to respect freedoms of association, expression and assembly and the African Commission on Human and Peoples' Rights, which is the supervisory organ of the Charter, has appointed a Special Rapporteur on Human Rights Defenders in Africa to ensure respect of these rights. In May 2014, the ACHPR adopted a resolution on "Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity" that "calls on State Parties to ensure that human rights defenders work in an enabling environment that is free of stigma, reprisals or criminal prosecution as a result of their human rights protection activities, including the rights of sexual minorities."<sup>3</sup>

In several cases, treaty and special procedures bodies have questioned Cameroon, which is bound by international and regional conventions and standards on human rights, about its respect for the rights of human rights defenders, especially defenders of LGBTI rights.

In 2010, for instance, in its concluding observations, the UN Human Rights Committee expressed concern about the fact that the number of registered NGO was so small in a country the size of Cameroon<sup>4</sup>. In its concluding observations following its examination of Cameroon State Report in 2013, the ACHPR criticised the Government of Cameroon for judicial harassment, attacks on life and other violations of human rights defenders' rights, especially the defenders working on the issue of sexual orientation<sup>5</sup>. The African Commission's Special Rapporteur on Human Rights Defenders in Africa also condemned the murder of LGBTI rights defender Eric Ohena Lembembe

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2. See Declaration on Human Rights Defenders adopted on 9 December 1998 by Resolution A/RES/53/144. Available on line: <http://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/770/89/pdf/N9977089.pdf?OpenElement>

3. See African Commission for Human and Peoples' Rights. Resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity. 55th Ordinary Session held from 28 April to 12 May 2014 in Luanda, Angola. Available on line: <http://www.achpr.org/sessions/55th/resolutions/275/>

4. See concluding observations of the Human Rights Committee on the report of the State of Cameroon. Available on line: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/CMR/CO/4&Lang=Fr](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/CMR/CO/4&Lang=Fr)

5. See concluding observations of the ACHPR on the 3rd Periodic Report of the Republic of Cameroon, especially pages 9 and 12. Available on line: [http://www.achpr.org/files/sessions/54th/conc-obs/3-2008-2011/concluding\\_observations\\_cameroon\\_eng.pdf](http://www.achpr.org/files/sessions/54th/conc-obs/3-2008-2011/concluding_observations_cameroon_eng.pdf)



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and called for an impartial investigation that would lead to the prosecution of the perpetrators<sup>6</sup>. Further, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; on the rights to freedom of peaceful assembly and of association; on the situation of human rights defenders, and on extrajudicial, summary or arbitrary executions sent a communication to the President of Cameroon in August 2013 informing him about the numerous violations of LGBTI persons defenders' rights and urging the authorities to react to this information and to respect the provisions of the international law that is binding on the country<sup>7</sup>. Last, during the second cycle of the Universal Periodic Review of Cameroon several recommendations were addressed to the Republic of Cameroon on protection for human rights defenders. The Government accepted the recommendations<sup>8</sup>.

In April 2011, Cameroon set up an inter-ministerial committee to monitor and implement decisions made by the international mechanisms for the promotion and protection of human rights. The committee is chaired by the Secretary General of Services of the Prime Minister's Office or his representatives. It is hosted by the services of the Prime Minister and reports directly to the President of the Republic<sup>9</sup>. The Committee was particularly tasked to implement the recommendations accepted by Cameroon at the end of the various cycles of the Universal Periodic Review (UPR). The establishment of this committee was a sign of a certain political will to implement the recommendations on human rights, but this report shows that to date, no improvements have been made in the situation of the LGBTI persons' rights defenders thus showing the limits to the role and the impact of this inter-ministerial monitoring committee.

## **1.2. The constitutional and legal framework**

### **The Constitution**

The Preamble to the Constitution of the Republic of Cameroon confirms the sacred and inalienable character of individual liberties and the State's attachment to the fundamental rights set out in the Universal Declaration of Human Rights, the United Nations Charter, the African Charter on Human and Peoples' Rights and all the related international agreements that Cameroon has duly ratified<sup>10</sup>. The Constitution stipulates that in case of conflict with national legislation, the international treaties shall be overriding (Article 45).

The Constitution of Cameroon specifically guarantees non-discrimination and equal rights for all citizens, protection of minorities<sup>11</sup>, freedom and security for all, a ban on arbitrary detention, torture, and inhumane and degrading treatment, the right to life, the right to justice and to freedom of association, assembly and expression.

The provisions of the Constitution, thus, are not only expected to protect the actions of the LGBTI persons' rights defenders but also ensure decriminalisation of sexual relations between persons of the same sex.

### **The legislative power**

The Cameroonian law criminalising sexual relations between persons of the same sex clearly violates the international provisions on the protection of human rights, and the Constitution of Cameroon. This said and unlike other countries that criminalise homosexuality, Cameroon does not have

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6. See Press Release of the Special Rapporteur on the Situation of Human Rights Defenders in Africa on the assassination of human rights defender Eric Ohena Lembembe. Available on line; <http://www.achpr.org/press/2013/07/d170/>

7. See communication by the United Nations rapporteurs. Available on line: [https://spdb.ohchr.org/hrdb/24th/Public\\_-\\_UA\\_Cameroun\\_13.08.13\\_%283.2013%29\\_Pro.pdf](https://spdb.ohchr.org/hrdb/24th/Public_-_UA_Cameroun_13.08.13_%283.2013%29_Pro.pdf)

8. See report of the Working Group on the Universal Periodic Review (UPR) on Cameroon and the addendum to the report with regard to the positions taken by Cameroon on recommendations from the second cycle of the UPR. Available on line: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/CMSession16.aspx>

9. [In French] <http://cameroon-info.net/stories/0,58690,@,cameroun-conseil-des-droits-de-l-homme-de-l-onu-le-caillou-dans-la-chaussure-du-.html>

10. Paragraph 2 of the Preamble to the Constitution of Cameroon.

11. *Ibidem*.

special laws making it a criminal offence for associations to protect the rights of LGBTI persons. In practice however (see Part II 2.2) the freedom of association of defenders of LGBTI persons' rights is far from free.

### **The law criminalising homosexuality: anti-constitutional and contrary to international standards on the protection of human rights**

**Article 347 bis of the Penal Code** metes out a six-month to five-year prison sentence and a fine of between 20,000 and 200,000 CFA francs to *“any person who has sexual relations with a person of the same sex”*.

• **Article 347 bis is invalid since it is contrary to the Constitution of Cameroon, especially to the principle of legality of criminal offences and penalties:**

It was inserted into the Cameroonian Penal Code by an order of President Ahmadou Ahidjo on 18 September 1972 (at a time when Cameroon did not have a Parliament to pass laws on issues falling within the jurisdiction of the Legislative Power) and the Cameroonian Parliament never took a stand on the text. But in article 26, the Constitution recognises the exclusive rights of the Legislative Power to define crimes and offences, in compliance with the founding principle of separation of powers common to all democratic countries. Since the Cameroonian Parliament did not vote on Article 347 bis it cannot be used as the basis for questioning, provisional detention, prosecution, or conviction without violating the principle of legality of texts applied in penal matters.

• **Article 347 bis is applied in an arbitrary manner and, more specifically, in a manner that contradicts the principle of restrictive interpretation of criminal law:**

In theory, the text punishes sexual acts between persons of the same sex and thus requires proof of the sexual act to be reported, the perfect proof being *flagrante delicto*. But in practice, the police and the justice department use this article to arrest and convict persons solely on the basis of their real or alleged homosexuality, which is deduced from their appearance, their hair style, their attitude, the company they keep and even what they are drinking at the time of their arrest<sup>12</sup>. While in the vast majority of cases, there is no proof of sexual relation in the file.

• **Will Article 347 bis be removed or amended to be more, or less, repressive?**

Since 2010, the Cameroonian Ministry of Justice has been trying to revise the 1967 Penal Code. In a draft revision that was published during the validation process in 2011, the section on homosexuality was not changed. Shortly thereafter, the Minister of Justice was replaced, leaving hope that the text would be amended to conform to international law. In 2013, representatives of the Cameroonian judiciary told Human Rights Watch and CAMFAIDS that the text was being revised by a new team at the ministry, but did not mention any deadlines.

The report of the State of Cameroon was examined by the UN Human Rights Committee that said it was extremely worried about the condemnation of sexual relations between consenting adults of the same sex. In its concluding observations, the Committee recommended that the State take steps immediately to decriminalise sexual relations between consenting same-sex adults and align the law comply with the ICCPR. The Committee added that the State should also take the necessary steps to end the prejudice and social stigmatisation connected to homosexuality and to clearly show that no form of harassment, discrimination or violence against persons because of their sexual orientation will be tolerated<sup>13</sup>.

12. According to the judge in Yaoundé, quoted by barrister Michel Togué, “Bailey’s is a lady’s drink”. See also the following articles: [http://www.huffingtonpost.com/2014/09/18/baileys-gay-cameroon-\\_n\\_5845270.html](http://www.huffingtonpost.com/2014/09/18/baileys-gay-cameroon-_n_5845270.html) and <http://www.dailymail.co.uk/news/article-2258756/Cameroon-men-jailed-looking-gay-liking-Baileys-convictions-overturned.html>

13. See concluding observations by the Human Rights Committee, on Cameroon. United Nations Document CCPR/C/CMR/CO/4,

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According to Law no. 90-053 of 19 December 1990, supplemented by Law no. 99-011 of 20 July 1999, associations must register with the prefecture or the sub-prefecture essentially as follows:

- 1) Deposit the statutes, by-laws, and the minutes of the constitutive assembly and the list of members at the Prefecture. The administrative authority must issue a "receipt of deposit" with a number and a date of deposit and then examine the request;
- 2) After this first control, and with a period of time not defined by law, the prefecture (if the file appears acceptable) provides the association with a "registration receipt", showing a date and a number, duly signed by the government authority;
- 3) After a period of at least three years, the duly declared association can file a request with the Ministry of Territorial Administration to obtain the status of national non-governmental organisation (NGO). Applications for the status of international NGO have to be filed with the Ministry of External Affairs (MIREX).

Organisations with the NGO status benefit from a favourable tax regime but they also have to cope with State interference in their activities, e.g. obligation to provide an accounts statement and an activities report every quarter.

## **2. Institutional positions**

### **2.1. The political authorities**

Despite the variations in their positions and declarations on the question of homosexuality, depending on international pressure, the authorities' positions stigmatise LGBTI persons and the defenders of LGBTI persons' rights. According to some interlocutors with whom the mission spoke, the authorities sometimes use the homosexuality issue to hide problems connected to the economic crisis and the corruption that is gnawing away at the country. Attitudes of this type nurture a homophobia that affects the functioning of the administration, the judicial system and the society at large. In 2006, when noise and scandal broke out because three Cameroonian newspapers published a list of 50 homosexual and lesbian public figures, President Paul Biya emphasised the importance on respecting private life.

Nonetheless, during the first cycle of the Universal Periodic Review in 2009 when the situation of human rights in Cameroon was analysed, the State delegation rejected all the recommendations on decriminalising homosexual acts between consenting adults and the elimination of violence and discrimination against homosexual persons on the pretext that the majority of Cameroonians feel that homosexual acts are not consistent with African cultural values and morality.

In its response to the recommendations, the State asserted that the criminalisation of homosexuality is not contrary to the international human rights instruments and that, moreover, "homosexuals are not denied legal rights or services because of their alleged sexual orientation" and shamefully added that homosexual practices are "contrary to both current legislation and what Cameroonian society still considers to be proper moral conduct".<sup>14</sup>

Cameroon found support in refusing protection and enjoyment of human rights to LGBTI persons by referring to the provisions of article 29(2) of the Universal Declaration of Human Rights which allows the States to limit the rights and freedoms of its citizens in order to abide by the just requirements of morality, public order and the general welfare in a democratic society, and to article 29(7) of the African Charter on Human and Peoples' Rights that requires the individual to preserve and strengthen positive African cultural values in their relations with other

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par. 12. Available on line: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/CMR/CO/4&Lang=Fr](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/CMR/CO/4&Lang=Fr)  
14. See A/HRC/11/21/Add.1, Report of the Working Group on the Universal Periodic Review on Cameroon, Opinions on the conclusions and/or recommendations, voluntary commitments and responses presented by the State under review. Available on line: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/CMSession4.aspx>

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members of the society. These arguments were contradicted and rejected in the jurisprudence of the United Nations Human Rights Committee and by the African Commission on Human and Peoples' Rights (ACHPR).

At the beginning of 2012, President Paul Biya told certain diplomats that he was not ready to call for the decriminalisation of homosexuality in Cameroon but would make a special effort to impose a moratorium on arrests based on article 347 bis of the Penal Code. Up to now, this commitment has not been met.

In Paris on 17 December 2013, President Biya said that "attitudes can change in one direction or the other but for the time being [homosexual relations], they are an offence" thereby showing that he had changed his attitude.<sup>15</sup> He encouraged "homosexuals and their defenders working for the decriminalisation of homosexual practices in Cameroon not to lose hope".

In discussions with mission delegates about the President's reaction to the publication of the list in 2006, some people talked about double standard. Paul Biya recognised the private character of homosexual relations for personalities close to the government while for ordinary citizens, he felt this was an offence that warranted prosecution and arrest.

During the second cycle of the Universal Periodic Review (UPR) in 2013, Cameroon again rejected the recommendations on decriminalising same-sex sexual acts, for the same reason as in 2009 and added that maintaining the criminalisation charges "contributed to protecting the family, which is the basis of community life"<sup>16</sup>. Going even farther, the State reasserted that homosexuality was "generally considered to be an activity that lacks morality and should be punished"<sup>17</sup> and also refused the recommendation calling for legal recognition of organisations that defend the rights of LGBTI persons and to protect them against all homophobic dangers and acts so that they can successfully carry out their efforts to control HIV/Aids and sexually transmissible infections (STI). Whilst asserting the principles of non-intervention in people's private life and non-discrimination, the State declared that people "who are lawfully arrested and sentenced for homosexual practices, are usually detained when perpetrating said acts on a public road or in a public place (offence of indecency and immorality) or following a complaint or a denunciation that leads to an in-depth investigation"<sup>18</sup>. The human rights defenders who met with the mission delegates did not agree with this version of the story. On the other hand, the State accepted the recommendations on "investigating police violence that took place on persons because of their actual or perceived sexual orientation".

On 19 July 2013, Issa Tchiroma Bakary, Minister of Communication and Government spokesperson would have made the following statement in response to certain reactions to the murder of Eric Ohena Lembembe: "many activists very openly deal with the question of homosexuality from a favourable, corporatist or even promotional angle within the country. The law enforcement officers and the judicial services leave them alone although even promoting an illegal activity is an offence that warrants punishment in our country".<sup>19</sup> On 29 August 2013, the same Government spokesperson, when asked about decriminalisation, told the media that: "*between 95% and 99% of the Cameroonians today are believers, they are Catholic, Protestant, animist and Muslim. All of them are against homosexuality because their religions are against homosexuality*", and he added, "*It is the duty of the President of the Republic to respect the will of his people and, above all, to ensure that the current provisions of the law are applied. Maybe in 50 years from now things will*

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15. See [in French] <http://www.20minutes.fr/ledirect/1090661/cameroun-esprits-evoluent-homosexualite-selon-president-paul-biya>

16. See Addendum to the Cameroonian Report of the Working Group on the Universal Periodic Review (UPR) on the country's position on the recommendations from the second cycle of the UPR, Available on line [in French]: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/CMSession16.aspx>

17. *Ibidem*.

18. *Ibidem*.

19. See complete statement by Issa Tchiroma Bakary, Minister of Communication, on 19 July 2013 in Yaoundé. Available on line [in French]: <http://www.cameroon-info.net/stories/0,49230,@,cameroun-deces-de-eric-hubert-lembembe-ohena-la-declaration-de-issa-tchiroma-bak.html>

.....  
be different".<sup>20</sup> In another press briefing, on 23 January 2014, he said that the great majority of the Cameroonians strongly rejects homosexuality. They are not ready to accept it, not even to tolerate it. And, he added: "President Paul Biya won't give in (...) he is a practicing Catholic Christian".<sup>21</sup>

## **2.2. The administrative and police authorities**

As part of its investigation, the mission delegates talked to representatives of the administration and the police force about their role in the exercise of rights and freedoms by the Cameroonian citizens, more specifically the protection of defenders of LGBTI persons' rights. The anti-gay legal and political environment seemed to have a negative effect on the discharge of their obligations and contributed to undermining the protection and rights of defenders of LGBTI persons' rights.

### **Officers in charge of registering associations**

The law (see Part II 1.2) in principle authorises the registration of associations for the protection of LGBTI persons' rights but the facts are different and openly contradict the Constitution and the international instruments on human rights protection. The Mission learned that after associations defending LGBTI persons' rights file applications with the prefecture, the agents deliberately avoid issuing a receipt and express "reservations" about the social goals. This type of behaviour forces associations for the protection of LGBTI persons' rights to deposit another file that is more "acceptable", in other words, whose social goal is broader, e.g., defence of human rights in general, or is centred on a health issues, e.g., the fight against HIV/AIDS among a vulnerable population. The applicant may also decide to deposit the file in another, more "understanding" prefecture, e.g., if the applicant is labelled "LGBTI" in the Douala Prefecture, s/he can file the application with a sub-prefecture in another region. This won't prevent the association from being able to work throughout the country, even in Douala. The result of this State officials' conduct is that, *in fine*, Cameroon has no organisation that is officially devoted to defending the rights of LGBTI persons.

### **The police**

The police force ensures security and public order; its mission is to prevent the commission of offences against and violations of the citizens' rights. As such, it has a crucial role to play in protecting human rights defenders, including defenders of LGBTI persons' rights.

The mission delegates were received in Yaoundé by Mr Victor Ndoki, Spokesperson of the Delegate General for National Security, who was accompanied by three senior officers from the National Security, namely, Mr Jacques Drili Director of the Judicial Police, and Messrs Pierre-Marie Ngouanom and David Ewu Ngeme, and also a university professor, Mr Willson Mwomo Ela.

Mr Ndoki told the mission delegates that the National Security considered respect for human rights as a central issue. He also said that in his service, "no misconduct is tolerated" and that each police officer has a copy of the Code of Conduct that has been in force since 19 November 2012 in his/her pocket.

Mr Ndoki gave the mission a copy of the Code entitled "Code of Conduct for National Security Personnel" (*Code de déontologie des fonctionnaires de la Sûreté nationale*, enacted through Decree no. 2012/546 signed by the President of the Republic, the Supreme Commander of the Police Force).

Article 17 of the Code of Conduct specifies that:

.....  
20. See interview of Issa Tchiroma Bakary in the daily newspaper *Mutations* of 4 February 2013. Available on line [in French]: <http://fr.africa.com/stories/201302050002.html>

21. On this subject, see article in the newspaper *L'Effort Camerounais*. Available on line [in French]: <http://www.leffortcamerounais.info/2014/02/homosexualite-.html>

.....  
"National Security agents (...) shall:

- respect the law, ensure that the law is respected, and obey the law;
- defend and protect the fundamental human rights;
- banish tribalism, favoritism, nepotism, discrimination and corruption;
- serve the community according to the law, and not use it or supersede it (...)"

Articles 27, 28 and 30 stipulate:

"Article 27 – (1) The National Security officers shall respect and protect the rights of all persons. (2) S/he shall respect the right to freedom, individual security, private and family life, the inviolability of the home, the confidentiality of correspondence (...)

Article 28 – In carrying out his/her duties, the National Security agent shall be guided by principles of impartiality and scrupulous respect for fundamental human rights, in particular the right to freedom of thought, conscience, religion, expression, opinion, peaceful assembly, free circulation and respect for the properties of all persons.

Article 30 – In carrying out his/her duties, the National Security officer shall refrain from any discrimination based on sex, race, ethnic origin, language, religion, education, political affiliation, opinion, disability, social position and other reasons prohibited by the Constitution and by international treaties and agreements."

Last, the Code of Conduct establishes the "ten commandments of the police agent", the tenth one formally states that: *"he shall be the leading defender of human rights and to this end shall respect the person and shall refuse to inflict inhumane or degrading treatment on any person"*.

Mr Ndoki insisted in explaining that all violations of the Code of Conduct were systematically sanctioned, without exception. He invited the victims of ill treatment, discrimination or attempts at corruption by police agents to report to the higher authorities and added, *"A homosexual is a human being that must be protected like all human beings. Report any cases you know about directly to us!"*

But when the mission delegates talked about the aggression and blackmail reported by the LGBTI persons' rights defenders, their interlocutors avoided the question by insisting categorically that *"homosexuals were not subjected to more attacks against themselves and their properties than anyone else"*.

Concerning article 347 bis of the Penal Code, they said that, on the one hand, *"it is so difficult to prove the offence of homosexuality that it is almost impossible to apply this article"* and that the majority of the Cameroonians would be against the removal of this article, because *"the Cameroonian people are not ready to accept homosexuality"*.

Concerning the assassination of Eric Ohena Lembembe, Mr Ndoki said he learned about it from the radio, *"I was going home around 7 or 8 pm when I heard on RFI that a human rights defender had been murdered. I immediately called the Regional Chief Officer and the Director General of the Judicial Police, who is with us here now, and I said that everything had to be done to investigate the case since the victim was a human rights defender. We did what needed to be done, and then the police and the fire brigade went to work. A man had died, but for the police this was nothing unusual since we have a lot of assassinations. We were looking for people who had been in a bar with him. Was this a vendetta? He lived in a room in the Tongolo district because he was not on good terms with this family. The police did everything it was supposed to do in this case. That's why we were very surprised by the international reactions and the direct attacks against the President."*

In response to precise questions about how the enquiry was carried out, the following answers were given:

- there was *"an autopsy and everyone was invited"*;
- there are *"two forensic reports that are in the files of the examining magistrate"*;
- two or three days after the corpse was found, the Director of the Judicial Police took the case away from the regional police to be sure that the investigation would be carried out properly;

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- everything was done under the supervision of the Public Prosecutor;
  - the police took photos but were not able to take fingerprints. The Director of the Judicial Police added: *"When I took over the case, three days after the corpse had been found, we did not take fingerprints because the premises were already too 'polluted', it was too late. But we followed up on every clue."*

It would be worthwhile comparing these statements with the statements made by Eric Lembembe's family and friends (see Part III. 2 below).

In answer to the question about complaints lodged by defence lawyers Alice Nkom, Michel Togu  and Maximilienne Ngo Mbe (for threats and burglaries – see Part III 1.1.), the Director of the Judicial Police said that *"he didn't know about those cases"*.

To conclude the discussions, the mission was told that *"in Africa and especially in Cameroon a profit-seeking market in human rights is being developed. But there is no reason to protect one category of persons or defenders rather than any others"*.

### **2.3. Judicial powers**

According to the Cameroonian Constitution, (article 37) Judicial powers shall be exercised by the Supreme Court, Courts of Appeal and Tribunals throughout the national territory. The magistrates shall guarantee respect for individual rights and freedoms and, in exercising their jurisdiction functions, shall be governed only *"by the law and their conscience"*.

Article 37 also states that the Judicial Power shall be independent of the Executive and Legislative powers and stipulates that the President of the Republic, as Head of State, shall guarantee this independence.

The President of the Republic is the President of the High Council of the Judiciary, whose role is to appoint and discipline the magistrates. The Minister of Justice is the Vice President. The career of the magistrates, thus, is under the control of the Executive branch.

Many people told the mission delegates about the deep corruption within the Cameroonian judiciary, that is sapping confidence in the justice system. From reports received by the mission's delegates, many magistrates, apparently, – who rank among the highest paid civil servants, – accept bribes and *"barter"* their decisions.

The mission was told that magistrates handling cases connected to homosexuality do not seem much concerned about the right to a fair trial, nor the value of the evidence when sentencing the accused. This situation further emphasises the pressure on and threats against defenders of the rights of LGBTI persons.

Another problem is the malfunctioning of the legal assistance services, established by the law of 14 April 2009 in order to guarantee access to justice and a lawyer for all citizens. The mission delegates were told that obtaining proof of indigence is a hard battle. The administration only issues certificates of indigence after a social enquiry has been conducted, which involves a visit to the home of the applicant but if the applicant wishes to obtain the certificate within a reasonable time, s/he has to pay the cost of the government agent's visit. This cumbersome, costly procedure and the time required to process the application for legal assistance makes the system inoperative. Further, the ridiculously low payment that the State makes to lawyers assigned by the legal assistance services, i.e. 5000 CFA (about 7.60  or \$10.) per case and per hearing, does not motivate the lawyers to provide worthy defence services. And when the case involves LGBTI persons, the lawyers who accept to take the case are quickly *"earmarked"* and are subjected to threats and prosecution (see Part III 2.3.). The result is that only 4 or 5 members of the Cameroon Bar, which is composed of 2500 lawyers, accept to defend persons accused under article 347 bis of the Penal Code.

Furthermore, the Supreme Court of Cameroon has not yet taken a stand on article 347 bis. It has only dealt with two cases:

- Singa Kimie and Ndjome Francky (called the "Jonas and Francky case"), two transgender persons sentenced to 5 years in prison by the criminal court for their feminine appearance. On 7 January 2013, the appeals court quashed the sentence. The Public Prosecutor referred the case to the Supreme Court, but no date has been set for the hearing. The waiting time for hearings before the Supreme Court apparently is about 10 years.
- On 17 December 2012, the Court of Appeals sentenced Roger Mbédé to three years in prison for having sent an affectionate text to a man. His lawyer seized the Supreme Court but Roger Mbédé, who was released for medical reasons and did not attend the hearing before the Court of Appeals out of fear of being sent back to prison, died on 10 January 2014.

### Prosecution based on homosexuality

The mission was told that prosecution for "homosexuality" started in 2005 with the "Case of Yaoundé 11" and that numbers had been growing since 2011, especially in Yaoundé. ADEFHO has recorded the arrest and prosecution of 51 persons suspected of homosexuality between 2005 and 2013. According to the association Alternatives-Cameroun, Cameroon holds the world record in the number of LGBTI persons arrested.

Since 2011, the prosecutors in Cameroon have initiated legal proceedings on the basis of article 347 bis against 28 people. In most cases, the accused were found guilty, often on very flimsy evidence, or even without evidence, of same-sex sexual relations (8 persons were convicted of homosexuality between 2010 and 2012 according to HRW; 22 person in 2010 and 2011 according to the Ministry of Justice).

At the time of the mission, there were at least 20 persons who apparently were imprisoned on the basis of article 347 bis.

## 2.4. The National Commission for Human Rights and Freedoms (CNDHL)

The National Commission for Human Rights and Liberties (CNDHL) is nearly the only state institution in Cameroon whose role is to promote and protect human rights. Human rights defenders quite rightly based all their hopes on this commission. Unfortunately it lacks resources and independence from the Executive Power with which it often agrees on the (non) protection of defenders of the human rights of LGBTI persons, despite the potential its has for action thanks to its strong mandate and its flexible structure.

### CNDHL and defenders of LGBTI persons' rights

The National Commission for Human Rights and Freedoms (CNDHL) in Cameroon was created through Law No. 2004/015 of 22 July 2004. It is said to be independent; its mandate includes consultation, observation, evaluation, dialogue, meetings, promotion and protection in the field of human rights and freedoms.

CNDHL is composed of four specialised sub-commission<sup>22</sup> whose aim is to cover all the issues related to human rights. Sub-Commission 3, for instance, which focuses on vulnerable populations, works on the problems of people living with HIV/AIDS and can also work on the issue of the right to healthcare for LGBTI persons and call upon the public authorities to take effective steps to fight discrimination in the public healthcare facilities against men who have sexual relations with other men (MSM).

Similarly, Sub-Commission 4 on special issues can work on protection for human rights defenders who are subjected to threats, intimidation and reprisal because of their efforts to

22. See Sub-Commissions: S/C 1) civil and political rights; S/C 2) economic, social and cultural rights; S/C 3) vulnerable populations; S/C 4) special issues.



guarantee access to human rights for everyone, without discrimination, including discrimination based on sexual orientation and gender identity.

The 2012 Annual Report<sup>23</sup> shows that CNDHL activities in support of LGBTI persons and LGBTI persons' rights defenders were limited or almost non-existent. CNDHL was informed about the anonymous threats against two lawyers, Alice Nkom and Michel Togu , for their activities in defence of LGBTI persons' rights, and the members of the CNDHL littoral region branch made a field visit, but nothing was done thereafter.

The mission delegates met with the President of CNDHL and sub-commission members, and talked about field visits to the place where violence occurred against LGBTI persons and defenders of LGBTI persons' rights, especially in the Eric Ohena Lembembe case. The Commission informed the mission that it withdrew from the Lembembe case to allow the judicial services to work freely when the case was transferred to the examining magistrate. Our organisations felt that as part of the CNDHL mandate for consultations, dialogue and alerts, the Commission has the duty to monitor cases that are before the courts and to demand that justice be done in a timely manner and with respect for the principles of a fair and equitable trial.

The mission was given a list of the cases of defenders of LGBTI persons' rights being handled by the CNDHL upon referral, but the Commission explained that it was difficult to establish contact with presumed homosexuals, members of their families, and LGBTI rights defence associations since they needed to protect their safety and privacy. Here again, this reflects the distrust between the activities and organisations defending LGBTI persons' rights and the CNDHL whose position on homosexuality is not reassuring.

Actually in its June 2013 report on the state of human rights in Cameroon in 2012, the Commission did not hide its refusal to protect LGBTI people "as long as sexual relations between people of the same sex is considered illegal"<sup>24</sup>. Furthermore, the Commission asserted that "*homosexuals living in Cameroon are not stigmatised nor systemically sanctioned because of their sexual orientation*"<sup>25</sup>. In his response to the press release by Amnesty International following the publication of a report that pointed to the persecution of homosexuals in various neighbourhoods and in the prisons, the President of the Commission explained that "*the position of the CNDHL is similar to that of the nation (the government)*"<sup>26</sup>, notwithstanding the independence granted to the Commission by the law that created it.

In the January-March 2013 issue of the Commission's magazine *Born Free*, Jacques Doo Bell, a member of the Commission, compares homosexuals to "*highway bandits and chicken thieves [who are] systematically lynched by the crowd*" and therefore "*recommends that they be extremely careful and discreet*"<sup>27</sup> (CNDHL, *Born Free* no. 31 pp. 3-4).

Last, through discussions with CNDHL and with Cameroonian government representatives, the mission delegates concluded that a certain confusion was being maintained between demands for the right to same-sex marriage on the one hand and the need to protect the human rights of LGBTI persons to comply with the principles of universal access to rights and non-discrimination for all individuals, including LGBTI persons living in Cameroon, on the other. This confusion is combined with a conspiracy theory that assimilates homosexuality with "freemasonry", "casting couch", "western homosexual lobbying", etc.

23. See Republic of Cameroon, National Commission on Human Rights and Freedoms, *2012 Activities Report*, Messie, Yaound , June 2013, p. 99. Available on line: <http://www.cndhl.cm/index.php/repository/rappports/>

24. See Republic of Cameroon, CNDHL, *Report on the state of human rights in Cameroon in 2012*, Messie, Yaound ; June 2013, p. 107. Available on line: <http://www.cndhl.cm/index.php/repository/rappports/>

25. *Idem*, p. 106.

26. Report can be heard on the CNDHL home page <http://www.cndhl.cm/>

27. See CNDHL, *Born Free*, no. 31, pp. 3-4.

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### 3. Religious, media and diplomatic reactions

#### The Church

According to most of the mission's sources, the statements by the representatives of the Catholic Church did not contribute to lessening what they considered as *"a manhunt for homosexuals and defenders of LGBTI persons' rights"* that started in 2005. On the contrary, they made the situation worse.

Simon-Victor Tonyé Bakot, Archbishop Emeritus of Yaoundé, made a name for himself through several clearly homophobic statements. During mass on 25 December 2005, he said that *"because of their senior positions in our government, homosexuals are responsible for the misery in Cameroon and the unemployment of our graduates"* and hinted that to obtain a job or a promotion, men had to agree to having sexual relations with their male superiors.

Bakot's homophobic statements were repeated by many priests in Catholic churches throughout the country. Following all this preaching, on 10 January 2006 the Imam Cheick Ibrahim Mbombo denounced homosexuality and pædophilia that he felt were "degrading".

In a discussion with the mission, the spokesman of the bishopric of Yaoundé said, *"homosexuality is a defect, although the Church condemns the sin and not the sinner. Persons who commit these acts need help to convert and leave the path of sin"*.

#### The media

In February 2006, after the homily by Simon-Victor Tonyé Bakot, three newspapers published the "Top 50" a list of perceived homosexual Cameroonian personalities (political leaders, business leaders, artists). Even now the Cameroonian papers regularly print articles that assimilate homosexuality to witchcraft, disease, pædophilia and rape, even a sectarian aberration or freemasonry that comes from the western countries.

In August 2012, Sismondi Barlev Bidjocka, a journalist and the self-proclaimed president of the homophobic group called the "Cameroonian Youth Rally" (*Rassemblement de la jeunesse camerounaise* – RJC) made a claim to fame by starting the "International Day Against Homosexuality". Sismondi, in June 2012, speaking on Vox Africa television, said: *"homosexuality is a crime against humanity"* and that he intended to hunt down homosexuals. He only operates in Yaoundé and his last "international day" only attracted about 30 people (including the activists supporting the LGBTI cause, who came as observers).

Everyone who spoke with the mission said how difficult it was for journalists to support the rights of LGBTI persons because of the position of their management and the threats they would receive. Only Stéphane Tchakam, journalist and founding member of Alternatives-Cameroun, and Eric Ohena Lembembe, journalist and co-founder of the Cameroonian Foundation for AIDS (CAMFAIDS) dared speak out in public<sup>28</sup>.

The mission met Alex Gustave Azebaze, journalist and former president and honorary adviser of the National Union of Cameroonian Journalists, – which was created in 2003 and is a member of the International Federation of Journalists (IFJ), – that carried out a study on how journalists treat homosexuality in Cameroon, together with PRODHOP, a human rights defence association created in 1996.

According to him, the Cameroonian media transmit homophobia because of:

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28. On this subject, consult the following articles also [in French]: <http://www.slateafrique.com/2093/cameroun-homosexuels-homophobie-religion-justice>; <http://76crimes.com/about-2/>

- insufficient training for Cameroonian journalists (although more than half of them have university degrees nowadays, human rights is not a subject that is taught in the journalism schools and there are no lifelong training courses);
- ignorance and the ease with which certain journalists claim they are the product of the “*nebulous concept of the so-called African culture*” which does not recognise homosexuality<sup>29</sup>;
- their taste and search for sensational events that boost sales.

This is how most of the media transmit and sustain feelings of hate and exclusion towards LGBTI persons and the defenders of their rights instead of serving as a source of tolerance and appeasement.

During his discussions with the mission delegates, Mr Azebaze remembered that any journalist who criticised the “Top 50” list that was published in 2006 was immediately “*accused of being a homosexual himself*”.

The mission was also told, to be fair, it must be added that most of the old generation of journalists and magistrates were educated in the colonial school “*where we were not taught to think for ourselves, but only to obey orders from above*”.

As for the radio, which is the most important media in Cameroon since it is available to everyone, Mr Azebaze said that the radio had to be consensual or risk being “*closed at any time for broadcasting information considered subversive*”.

It must be noted that it was the international media that broke the news on the murder of Eric Ohena Lembembe and that the local media said very little about it. Mr Azebaze said he did not know Lembembe as a journalist but as the communications man of an association. He learned about the murder through the “*buzz that came from abroad*”, from RFI, France 24 and press releases from international human rights organisations because “*here the press did not write much because the Cameroonian media are in an ambivalent position: if the subject irritates the authorities, they will stay away from it*”.

### **Diplomatic representations**

The mission met with several diplomatic representations accredited to Cameroon; they, more or less actively, are using discreet diplomacy to support improvements in the protection of the rights of LGBTI persons and their defenders in Cameroon. But the scope of their actions, and hence the results they achieve, are limited by their mandate and their personal commitment.

Between 2011 and 2013, the European Union funded the Supervision of Sexual Minorities Project (PAEMH), which included legal and medical assistance for persons detained and/or arrested because of their sexual orientations. Some of these people suffered from HIV/AIDS. PAEMH also included advocacy to the Cameroonian authorities, especially to convince the Supreme Court to take a stand on the legality of article 347 bis, which criminalises homosexuality. Advocacy also focused on universal access to healthcare for homosexuals. The Cameroonian Government openly expressed opposition to EU funding for a project that supported homosexual minority groups.<sup>30</sup> The mission was also told that the question of the rights of LGBTI persons and their defenders was sometimes central to the political dialogue between European and Cameroonian representatives who meet to discuss cooperation, draw recommendations and follow their implementation. Apparently the implementation and the impact of the recommendations from policy discussions on the protection of LGBTI persons’ rights are very limited.

29. On this issue see blog 76crimes (<http://76crimes.com/2014/01/30/21-varieties-of-traditional-african-homosexuality/>; <http://76crimes.com/2012/05/08/traditional-african-homosexuality-has-learned-from-west/>) or else the publication: *Boy-Wives and Female-Husbands: Studies of African homosexualities*, Stephen O. Murray and Willy Roscoe, Paperback, 2001.

30. On 13 January 2011 in Yaoundé, the Minister of External Relations, Mr Henri Eyebe Ayissi summoned the head of the EU Delegation, Mr Raouil Mateus Paula, to talk about European funding for the PAEMH project. The Minister apparently said: “the Cameroonian people are not yet ready nor willing to back the development of such practices on Cameroonian territory”. See the Observatory’s Press Release on the protection of human rights’ defenders dated 10 February 2011.

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Besides the PAEMH (which was brought to a halt) and the political dialogue, the mission did not hear about any other substantial initiatives, except for efforts by certain embassies to provide support for the human rights defenders involved in defending LGBTI persons' rights who receive threats regularly. The homophobia and the incitement to hate homosexuals that are clearly expressed and/or tolerated by the State and its institutions inhibits the possibilities for action by embassies since they are anxious to maintain good diplomatic relations and avoid criticising their host-State.

This situation is problematic and leaves the defenders of LGBTI persons' rights in a precarious position, even financially. Most of the organisations defending the rights of LGBTI persons in Cameroon do not have the resources to maintain medical or information centres for persons with HIV/AIDS, provide legal and emergency aid for people who are arrested, investigate violence, etc. Most of these organisations do not have their own offices (even less, "safe" offices) and receive little legal support, etc. There is a great need for capacity building and training for defenders of LGBTI persons' rights in areas such as documentation, data security, project management, physical safety, management of emergencies, communication, media management, network coordination, etc. Many of the defenders are working free-of-charge and yet frequently receive threats, and in some cases are ostracised by their communities and families.

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## III. VIOLATIONS OF THE RIGHTS OF LGBTI RIGHTS DEFENDERS

Although article 347 bis of the Cameroonian Penal Code was adopted in 1972, the mission was told that prosecution based on this article only started in 2005, more specifically on 21 May 2005 with the arrest of 32 people in a bar in Yaoundé. This led to the “case of Yaoundé 11” since 11 of them were sentenced to prison. Then came the 2005 Christmas homily by Simon-Victor Tonyé Bakot, Archbishop Emeritus of Yaoundé and the publication of the list of “50 personalities” in February 2006. Homophobic talk spread among the public, with confusion. Homosexuality was assimilated to practices such as ‘casting couch’ practices, rituals related to witchcraft or freemasonry or even pædophilia.

At this stage, the LGBTI community and several human rights defenders decided to join together and create associations (never officially dedicated to the LGBTI cause, See II 2.2. above) making themselves more visible, but also more exposed to risks.

Civil society representatives told the mission that threats to persons identified in the LGBTI group and to their defenders (activists, associations and lawyers) have increased sharply since 2010.

The fact that some defenders received financial support from abroad nurtured the fantasy that homosexuality was “*a deviant behaviour imported by the whites*”. This was repeated by some of the people who met with the mission, and said that this was in order to discredit these associations which are criticised for being supported by the “international gay lobby” and whose real motivation is said to be purely financial access to fast, easy money.

In this tense environment where the “LGBTI issue” is politically manipulated the LGBTI persons’ rights defenders are often hampered in their work, blackmailed and persecuted, sometimes followed by arbitrary detention and even a violent death, but the Cameroonian authorities do not seem to understand the importance of this scourge nor do they seem intent on fighting it.

In general, we noted that the inaction of the police and the judicial authorities encourages persecution. Even worse, in some cases the police or the magistrates initiate or help with the persecution of people because of their real or presumed homosexuality and the defenders of these people.

### **1. Obstructed right to freedom of association, threats, burglaries, blackmail, arbitrary arrests and detentions, and impunity**

In all the examples below, the authorities responsible for public order and citizen safety were informed, and complaints were legally filed but no thorough investigations have been carried out and no protection has been afforded to guarantee the safety of the targeted people and associations.

#### **1.1. Associations for the defence of LGBTI persons’ rights**

**Alternatives Cameroun** (Douala), founded in 2006 by Dr Steave Nemande and designer Parfait Behen, is the oldest Cameroonian association for the defence of sexual minorities. The association is registered as an NGO, an “association for the defence of human rights” (registration receipt dated 27 October 2006 indicates this social goal). In 2008, the association was able to open a healthcare centre (“Access Centre”) thanks to support from two donors, but for the last years has been waiting for authorisation from the Ministry of Health to have it recognised as an authorised care centre.

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For the last several years Alternatives-Cameroun has applied a strategy based on visibility and openness in an effort to create an easier atmosphere and "de-demonise" homosexuality. The entrance to the offices passes through a newsstand/snack bar that leads to the street and is open to everyone. Every year the association organises public events, including a youth day on 11 February, Saint Valentine's Day on 14 February and a free screening day in December.

On 27 June 2013, fire broke out in the offices, ostensibly the work of arsons. The fire-fighters came quickly enough to limit the damage to one office and reported the fire to the neighbourhood police station. The police came and the association filed a complaint but up to now, nothing has been done about it.

On 28 December 2013, one of the members of Alternatives-Cameroun was swindled. A senior representative of the association went to the police station to file a complaint against the black-mailer but nothing has been done since that time. Barrister Alice Nkom wrote to the Police Commissioner in January 2014 but has not received any response.

### Victims of swindlers

"Swindlers pretend they are members of the LGBTI community and telephone to set up a meeting wherever and whenever you want. When you get there, they demand a certain amount of money otherwise they report you to the police. They have accomplices in various police stations. So if you agree to go to the police station they just have to reveal your alleged identity ("he's a faggot!") for the police to arrest you and put you in prison to examine your case. They often question people close to you and make a forcible anal examination to 'prove' your homosexual relations; this also means paying a ransom to get released and to get the case closed".

*Testimony by a member of the LGBTI community met in Yaoundé on 10 January 2014.*

Adonis Tiedjou of **AIDS ACODEV** (Douala) deposited an application file with the Wouri Prefecture in 2008 in order to create an association that he called "Acodes Cameroun Sex Workers". After two refusals, in 2010 he applied to the Edea Prefecture with a new name and a new social purpose, and obtained a receipt in 2011. The association moved to Douala and filed its updated statutes with the Douala Sub-Prefecture. After several years of working without an official office, on 1 May 2013 the association opened the "Centre Empower" in Douala. It has been official recognised by the Ministry of Health and all the local and government authorities.

Since November 2013 Adonis Tiedjou and the Administrative Director have been receiving threatening messages on their cell phones. In December 2013, thieves stole Adonis' computer, camera and various documents from his office. The Association filed a complaint with the Police Station but nothing has happened since. On 23 December 2013, one week after the meeting held at the AIDS ACODEV office for the International Day to End Violence against Sex Workers, two people attacked Adonis Tiedjou in the street, in front of the Centre and threatened him with a knife. They slashed his bag and then fled, after passers-by started yelling.

**ADEPEV**, the Action for Development and Fulfilment of Vulnerable People, with headquarters in Yaoundé, was created by a group of committed people in 2009 after the death of several people who were identified as homosexuals. It is run by Marc Lambert Lamba, a prominent figure in the Cameroonian LGBTI movement. He is especially involved with people in prison (and at the time of the mission was monitoring the situation of 18 people incarcerated in Yaoundé) during both their detention period and after they are released. ADEPEV has created a telephone hotline to report "swindlers-blackmailer"; close to a hundred cases have been reported since 2012.

Marc Lambert Lamba, with the help of Amnesty International put great effort into defending Roger Mbédé. On 7 January 2014, three days before Mbédé's death, Mbédé's family detained Marc Lambert Lamba for half a day and demanded that the judicial file, the university docu-

ments and all the picture of Roger be brought back to the village so that *"we can at last break the curse of shame"*.

After Eric Ohena Lembembe's death, Marc Lambert Lamba also helped Lembembe's friends and obtained the assistance of barrister Michel Togu , to defend them during the police interrogation and the detention in police custody as "witnesses to the murder" (see III-2 below).

**Affirmative Action**, whose head office is in Yaound , was created in 2008 and received a registration receipt in 2010. Its main mission is to decrease HIV in vulnerable populations such as the physically disabled, street children, etc. The Executive Director is Serge Yotta. Affirmative Action has three action programmes: 1/ sexual health (MSM proctology consultation, social support and discussion groups for LGBTI persons, distribution of condoms), 2/ human rights (document violations, help LGBTI persons ostracised from their family or just leaving prison: a "refuge chamber" is being built in the new premises, and 3/ work on the gender issue (all identities that "do not conform to the norm").

The association's activists are often insulted ("dirty *tch l s* [faggots], you're going to have to leave this area"), even by text message on their cell phones. They answer by saying, "the prevalence rate in Yaound  is 44% so too bad for the insults. We need to fight!"

**CAMFAIDS – Cameroonian Foundation for Aids** was created by Dominique Menoga and the journalist Eric Ohena Lembembe, in Yaound  in 2009 but only became legal in 2012, with the social goal being "respect for human rights, especially the right to information, health and education for the most vulnerable people". More specifically CAMFAIDS' work aims at making society more tolerant and accepting of LGBTI people and getting homosexuality decriminalised in Cameroon. CAMFAIDS is a very active association that is finding it difficult to recover from the assassination of its Executive Director, Eric Ohena Lembembe in July 2013 followed by the arrest of several of its members who were suspected of complicity in the murder (see Part III-2 below). The former President of the association, Dominique Menoga, had to leave the country for security reasons. Nevertheless, CAMFAIDS is developing more activities and is providing legal, psychological and material assistance to LGBTI persons who are in unsafe situations, police custody and detention.

**Humanity First** was created in Yaound  in January 2010 to reduce the HIV/AIDS pandemic. It obtained its registration receipt in September 2010. *"At that time the message was 'hetero-centred'; we decided that we had to help ourselves. But we knew that we couldn't talk about LGBTI persons or sexual minorities, so we filed as an association to fight HIV/AIDS within vulnerable populations."*

The activists received threats. A neighbour warned them that young people from the area were *"preparing to throw them out using clubs"*. One of the leaders of the association told the mission delegates: *"We act wisely. If we stick our necks out, it has to be worthwhile. For instance, last year France 24 interviewed me and the interview was repeated all day long!"* I got phone calls all day long, especially from friends who asked me why I was defending homosexuals and said, *"What are you getting into? In any case you've always been a bit weird!"* I said, *"All this is counter-productive. Radio interviews are okay, being interviewed by RFI didn't cause any problems, but it's dangerous to be on television."*

**CAMEF** works in Limb  and Buea. In 2011, Bill Simbo submitted an application to the Limb  Prefecture to create an association called "ESPOIR PLUS" whose purpose was to protect LGBTI people. Since he did not receive an answer from the Prefecture, he submitted another application in 2013 under a different name and with a broader social goal: "protection of vulnerable persons". He received his registration receipt in one month.

The CAMEF activists regularly receive threats by mail and by text message. On 20 December 2013 the association's offices in Limb  were ransacked and their equipment was stolen. Bill Simbo went to the police station to file a complaint, but the police refused to accept the complaint and said, *"encouraging homosexuality is bad"*.

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CAMEF, whose offices are located in a small anonymous house on a hillside away from the city of Limbé, would like to move its headquarters to the centre of the city where the activists and the visitors will feel safer and where the association plans to create a care centre.

CAMEF is also active in the university town of Buea but it does not yet have its own offices there. Its activists meet in a student's room and, for the time being, prefer not "standing out too much as defenders of LGBTI persons' rights" since they have all been persecuted because of their homosexuality during the last two years.

**ACODEVO** (Association for impoverished and vulnerable communities of the coastal region) was created in December 2011 in Kribi with the assistance of its "big brother" ACODEV in Douala. In May 2013 Kede Benoit, an ACODEVO peer educator working as an observer and an HIV/AIDS prevention trainer was arrested after receiving two text messages from a man and then going to a meeting place which turned out to be a trap. He spent two weeks in pre-trial detention and then was sentenced to a suspended sentence of one year in prison for "an attempted homosexual act". He had to pay 65,000 CFA francs to the court and 25,000 CFA francs to the family of the "victim". Because of this affair, he lost his job as a cook.

In 2013 after an "anti-gay" parade organised by the city with the bishop of Kribi, ACODEVO stopped all its activities for two months. The activists are gradually resuming activities thanks to the contacts and good relations that the members of the association have maintained with the representatives of public administration and the priests in the Catholic Church.

## **1.2. General associations for the defence of human rights**

The rights of members of general human rights associations are often violated, as can be seen by the number of urgent appeals launched by the Observatory during the last few years<sup>31</sup>.

So few associations work on the problem of LGBTI rights that activists of human rights organisations which include LGBTI issues amongst their activities can be targeted for threats and rights violations.

That is the case for the Human Rights Defenders Network in Central Africa (*Réseau des défenseurs des droits humains en Afrique centrale* – REDHAC), which was created in 2007 in Kigali, Rwanda with headquarters first in Bukavu (DRC) and then, as of July 2010, in Douala. Ms Maximilienne Ngo Mbe is the REDHAC Executive Director. The network obtained its registration receipt in 2011 with its social goal shown as "defence of human rights defenders". The words "without discrimination" were added later.

According to Ms Ngo Mbe, "*all defenders are subjected to persecutions and reprisal for their actions. Defenders known to defend the rights of sexual minorities are targeted more severely than the others*". In 2009, REDHAC, together with Alternatives-Cameroun and Amnesty International, organised a forum on the topic of sexual minorities. Since that meeting, Ms Ngo Mbe is seen as a "defender of LGBTI persons" and has received increasingly serious threats. She has received death threats on her cell phone, and the human rights of several members of her family have been violated. Her niece, who lives with her, was kidnapped in 2012 by armed men in uniform, sexually abused and tortured. Then, on 5 April 2012, unidentified assailants tried to kidnap Ms Ngo Mbe's son at school. On 1 June 2013, the REDHAC headquarters in Douala was robbed. Ms Ngo Mbe filed a complaint at the police station on 2 June 2013. She met with Mr Ndoki, Secretary General of National Security, and personally gave him the file on the threats to her and her family and the medical file confirming the sexual abuse of her niece. He promised to do everything possible to find the culprits. Despite her many reminders, nothing has been done

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31. See Urgent appeals by the Observatory on Cameroon. Available on line: <https://www.fidh.org/International-Federation-for-Human-Rights/Africa/cameroon/> and <http://www.omct.org/search/?q=cameroon&p=19&sd=1>



about Ms Ngo Mbe's complaint. Because of those events, she had to resign herself to sending her children away; they are now studying abroad. During the night of 12-13 June 2014, REDHAC was burglarised again. No action has been taken following the complaints that were filed, and acknowledged by certificates of deposit.

### 1.3. The lawyers

To date, the Cameroon Bar association counts about 2,500 members. The mission was told that the members of the Bar have the same ignorance of and attitude towards homosexuality as the man in the street in Cameroon. Widespread, institutionalised homophobia has such a strong effect on the opinions and positions of the Cameroonian lawyers that the 4 or 5 of them who agree to defend LGBTI persons before the courts are stigmatised by their colleagues and the society.

The mission met with barrister Joseph Claude Billigha, a member and treasurer of the Bar Council and former president of the Human Rights and Freedoms Commission of the Cameroonian Bar Council, who explained that *"the Cameroonian society is homophobic"* and that colleagues who work on legal cases connected to homosexuality *"are conduits for funding"* who *"take advantage of an opportunity to receive funds from abroad"*.

He went on to say that if western countries, like France, condone sexual freedom, they should also accept polygamy. Mr Billigha also explained that:

- *"in former times, Cameroonian homosexuals were looked upon as the white man's woman, who accepted money from the whites, and it was said that the white man penetrated them from behind and took away their chances"* but *"now the habits of the whites have been taken over by the blacks"* and *"the white people want to force us to accept that"*;
- people who say they are LGBTIs do that for mercantile, financial reasons or "sleep their way up the ladder" (*"promotion canapé"*) or else to be accepted by the freemasonry.

This kind of talk explains the problem of providing effective legal aid for sexual minorities, which is almost non-accessible for the people who usually need it. There are only four Cameroonian lawyers who have been identified as lawyers who accept "homosexuality cases" and are committed to defending people who are prosecuted in sexual orientation cases, namely, Mrs Alice Nkom in Douala, Mr Michel Togu  in Yaound  and Mr Ndogo in Kumba.

These lawyers, defenders of LGBTI persons' rights, are often threatened and since 2012 have been systematically harassed. Some lawyers have created associations to strengthen their capacity for action.

**ADEFHO**, Association for the Defence of Homosexuals (*Association de d fense des homosexuel-le-s*) was created in Douala in 2008 by barrister Alice Nkom. It has not been able to obtain a registration receipt, but,



Portrait of Alice Nkom.



Portrait of Michel Togu .

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according to Ms Nkom, silence on the part of the authorities means that the application has been accepted. The lack of a receipt does not prevent the association from existing, but limits its capacity to act. Alice Nkom also created an association called **COFENHO** (no registration receipt either) and **SID'ADO** which has obtained a registration receipt.

On 27 March 2012, the seminar on the rights of sexual minorities organised by ADEFHO and SID'ADO in Yaoundé was interrupted, the participants were attacked, and one of the organisers was questioned by the police.

**Pro-Bono Group** (Kumba) is an association of lawyers created by barrister Walter Atoh M. Tchemi in 2009. He obtained a registration receipt from the Kumba Prefecture after making several amendments to the statutes. Mr Atoh told the mission about several attempts to intimidate him, even by a judge in a public hearing, and anonymous phone threats like (in 'pidgin' English: *"You are defending someone who destroys the anus of our sons, God will punish you"*). Since 2012 barristers Alice Nkom and Michel Togué have received a series of anonymous threats on their cell phones and through emails because of their work on homosexuality cases. A text message to Mr Togué threatened his school-aged children. Another sent the following warning: *"There is no room in this country for faggots and their defenders"* and a third warning told him that if he didn't stop *"defending his homo ideas"* he might find himself *"at the bedside on one of his dying children"*. The sender attached a picture of Mr Togué's children leaving school.

An email sent to Alice Nkom said: *"if you don't stop, just wait and see..."* and warned her, *"it will be bloody"*. The message also contained threats against her children. And in another threatening message to her clients, the sender announced: *"we just need to find the house... we already run the district"*.

During the night of 16-17 June 2013, burglars entered Mr Togué's office in Yaoundé and stole confidential legal files and a laptop computer, flash drives and the lawyer's passport. They left a large sum of money that was in a drawer although the drawer was open, thereby indicating that this was not an ordinary crime. Mr Togué decided to stay in Cameroon to carry on with his work.

Barrister Togué filed a complaint with the Yaoundé police and barrister Nkom has lodged a complaint with the Public Prosecutor of the Republic in Yaoundé and Douala: no reaction.

## **2. The murder of Eric Ohena Lembembe: a symbolic case with legal proceedings at a standstill**

On 15 July 2013 Eric Ohena Lembembe was found dead in his home. He was a journalist devoted to protecting the rights of LGBTI persons and the Executive Director of the Cameroonian Foundation for AIDS – CAMFAIDS.

Lembembe was beaten to death. His aggressor(s) apparently broke his neck and his feet and burned his face, hands and feet.

Besides his work at CAMFAIDS, he was the editor-in-chief of the newspaper *La Tribune du citoyen*, he worked for the newspaper *Le Jour* and for the press service of ASSOCIAL, *Association des amoureux du livre* (booklovers' association). He was one of the writers of the blog "Erasing 76 crimes" that speaks out against discrimination and violence based on sexual orientation and real or imputed gender identity/expression and violence against defenders of the rights of LGBTI persons. He also worked with several organisations such as Alternatives-Cameroun and ADEFHO. Further, he contributed to the drafting and distribution of a report published by Human Rights Watch in 2013 that, *inter alia*, submitted recommendations to the UN Human Rights Council for the Universal Periodic Review (UPR) on Cameroon in May 2013. He was a co-author for the book *From Wrongs to Gay Rights*.

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The murder of Eric Ohena Lembembe was condemned by the United States, the European Union, France and many local and international organisations. Representatives of the EU delegation, the Ambassador of the United States and the High Commissioner of Great Britain attended his funeral.

The news was retransmitted by several media, mainly international, e.g., France 24, *Radio France Internationale* (RFI), BBC, *The Guardian*, *Huffington Post*, and *Libération*. The Cameroonian Minister of Communication reacted by holding a press conference at which he refused to comment on, or condemn, the murder and asked the media people not to talk about it anymore.

During the investigation, the police apparently did not take photos at the scene of the crime and most of the investigation focused on the sexual orientation of Eric and his colleagues. Some of his friends were even put in prison for several days, which was completely illegal. They were not held as witnesses or put under police custody and their homes were searched without a warrant. Some of Eric's colleagues protested about the theft of CAMFAIDS confidential documents with information that would make it possible to identify LGBTI persons the association was helping.



Portrait of Eric Ohena Lembembe. – DR

According to Marc Lambert Lamba (ADEPEV) and Adonis Tiedjou (AIDS ACODEV), Eric died *"a few days after an investigative assignment in Bamenda"* about soldiers in a barrack. *"He had taken over from Stéphane Tchakam; everyone knew him. He did not hide what he was doing", "he had received threats on Facebook but he didn't know where they came from and he did not take them seriously"*.

Eric's mother met with the mission delegates on 11 January 2014 and told them: *"I only heard about my son's death on Monday 15 July 2013. On Tuesday I went to the police station and said I wanted to see my son's corpse, but I was told that I could not see it because the body had already rotted. Barristers Alice (Nkom) and Saskia (Saskia Ditisheim – President of Lawyers Without Borders-Switzerland) arrived, and we went to the morgue, but they wouldn't show me the body. The media were talking about Eric's death and the judicial police called to say to go and get the corpse, but at the 6th district police stations I was told that the body was under seal for the justice department and that I should come back to remove the corpse on August 3rd. That was the day that I saw the coffin, but it was sealed and I never was able to see the body. No one in the family saw Eric's body, nor did any of his friends. I did not bring it back to the village. He's buried here in Yaoundé.*

*After the funeral I asked for the autopsy report. The doctor said that I should turn to God and that they hadn't seen anything. But when I went with my daughter and Michel (Michel Engama - CAMFAIDS) to see the Divisional Commissioner, he said he would call when the autopsy would take place. But nobody called me, they just called me about removing the body.*

*When the police interrogated me, they asked me about how he was born, what life was like with my son and if there had been any problems, and if he was a journalist.*

*On 17 October 2013 I was summoned by the examining magistrate to be charged and interrogat-*

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ed about aggravated theft. I was ordered to appear on 23 October. When I arrived in the judge's chamber, I asked him why, after having lost my son, I was being accused of aggravated theft. I said I wanted to be told what I was accused of stealing. The judge said that it was a typing error, and finally asked me to have the death certificate legalised. I did that the next morning and returned to give the certificate to the judge.

We went there every day that week (24, 25, 26 and 27 July) but the judge never received us. Every day, people acted as if they couldn't see us. When we insisted, we were told that the judge saw imprisoned people first. Then, at 5 pm, the electricity was turned off and at 8 pm we were told that it was impossible to receive us without the electricity being on. I left the document with the judge's secretary. She said that we would be called in again. Since that time I haven't heard anything from the judge."

On Friday 19 July, Saskia Ditisheim filed a complaint and had Michel Togu  interven .

Alice Nkom: *"The police did not take any finger prints or photos at the scene of the crime. The police transmitted a file to the examining judge but let's not have any illusions: the case will be dismissed."*

Alex Gustave Azebaze: *"I didn't know Eric as a journalist, for me he was just speaking as a member of an association. After his death, there were some articles in the Cameroonian press but the "buzz" came from outside (RFI, France 24, and press releases from international human rights' NGOs). The Cameroonian media are in an ambivalent situation: if the subject irks the authorities, the media won't dare say anything. The situation was the same when St phane Tchakam, a talented journalist, died. His death was treated with indifference after he "came out".*

Maximilienne Ngo Mbe (REDHAC): *"Eric wrote for an online paper. He and St phane Tchakam, a journalist who worked for the private daily Le Jour and died in 2012, were the only two who had enough courage to write about the rights of LGBTI persons. Who could have committed this crime? In any case, it couldn't be the Cameroonian government (because it does not fit in with the methods they have been using since 2007). But we have the feeling that the Cameroonian justice department does not feel like finding the guilty ones."*

Adonis Tiedjou (AIDS ACODEV): *"Eric had taken over from St phane Tchakam, but he worked mostly on the Internet, on the 'Erasing 76 crimes' blog. Everyone knew him. He was very open in his work. What bothers me is that Eric died three days after we came back from Bamenda. It's obvious that the police made a mess of the investigation because when they want to, they manage to find culprits in less than three days. But why should they bother themselves with "the problems of the faggots"? It was the same thing after the tragedy of the young man who was thrown out of the window in the Hilton Hotel. For the young man whose father was a billionaire, it was the father who wanted to cover up the story!"*

Marc Lambert Lamba (ADEFHO and ADEPEV): *"Eric was the editor-in-chief of the Tribune du citoyen, a monthly journal published by ASSOAL, a Cameroonian association. The police left, taking some of Eric's friends (Michel and C dric, members of CAMFAIDS) with them and kept them in police custody for three days as suspects! I called Michel Togu , the lawyer, and he got them out. But a few days later, the police arrested these same people again, and also arrested Eric's little brother Anicet, his sister Alice and his mother.*

*The DAPJ sent the file to the DPJ which passed it on to the examining judge, Pascal Maniang-uabe (alias "the judge of Kosovo"), but he hasn't done anything for several months.*

*The lead lawyer in the case is Michel Togu .*

*I'm afraid that Eric's brother, Anicet is being manipulated by others. He recently lashed out at Eric's gay friends and apparently got into Eric's personal computer after Eric was dead (while the police said that the computer had disappeared). This is very alarming because the computer has personal data, like photos and Eric's address book.*

*Several complaints have been lodged against Anicet, but the police commissioner does not want to arrest him. He claims that Eric's murder was just a crime of passion among gays who kill each other. Two or three weeks before his death, Eric participated in an investigation of soldiers in barracks*

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*in Bamenda. He received threatening messages on his Facebook account but didn't know who had sent them and ignored them."*

*Stéphane Koche: "It was a tremendous shock. We didn't see it coming because Eric was not as much in the limelight as people like Alice Nkom and Michel Togué, for instance. We were all scared stiff during the following weeks and months. This couldn't be a crime of passion because Eric's mutilated body clearly expressed the culprit's homophobia. The investigation is slipshod because the Cameroonian police is extremely efficient [when it wants to be]. It has the best intelligence service. When it wants to, it can find a criminal in three days!"*

*Affirmative Action: "Murdering Eric was the act of an anti-gay. We think that the authorities are hiding something, otherwise they would have found the criminal. After Eric died, we said that we wanted to stop everything because we were too scared. As defenders we feel very unprotected, and we don't have the resources to protect ourselves because our situation, like everyone else's, is precarious. We are constantly looking for some quick funding. Maybe Eric wouldn't have been killed if he had had more money, if he had been able to live in a safer district.*

*Furthermore, the police doesn't do anything to protect us. During the vigil, for instance, Eric's little brother, Anicet, asked one of the beneficiaries of our association, Fabien, for his address. Fabien was too trusting and gave it to him. A few weeks later, in December 2013, Anicet and some of his friends armed with machetes and a weapon went to Fabien's home and threatened him: 'Just wait and see, the same thing that happened to Eric is going to happen to you.' Fabien lodged a complaint but up to now, nothing has happened."*

*Michel (CAMFAIDS): "We (Cédric and Michel) are the ones who phoned the police on Monday July 15th. The police opened the door which was locked from the outside, and found Eric's body laying across the bed. The police called the fire brigade; they wrapped the corpse in a sheet and told everyone to leave. It smelled so bad that we couldn't spend more than a minute in the bedroom. The police arrested the witnesses, and Eric's mother and sister. We were asked what Eric did. What did he do in your association? Did he have a girlfriend? We gave all the hints we could think of but the investigators didn't listen to us. They kept us in custody for three days, then the lawyer (Michel Togué) got us out. The investigators didn't even see Eric corpse. In Eric's bedroom, on Monday, we saw that his two computers and his little TV set were gone, but everything else was still there, perfectly tidy as usual.*

*Eric was a very pleasant fellow who, as far as I knew, didn't have any enemies. A month there before he resumed his job as editor-in-chief of ASSOAL where everyone thought highly of him. He wrote a lot, especially on the site of 'Erasing 76 crimes'. He had written on a series of recent homophobic events (arson in the Douala office of Alternatives-Cameroun, burglary at Michel Togué's, threats against Alice Nkom) and the night before he died, he wrote an article on crooks who were swindling homosexuals. He was preparing to write an article on how the police harass gays."*

Not only are the complaints filed by the organisation and the individual victims left unanswered but more importantly, the irregularities and the lack of thoroughness in the legal proceedings in the Eric Ohena Lembembe case prove the indifference of the national judiciary in cases of violence against homosexuals. The investigation was originally assigned to the police station of the 1st district of Yaoundé, but then was turned over to the National Security Central Administration, before finally being entrusted to an investigating judge who, more than six months after the murder (the time of the mission), had only summoned Eric's mother, sister and brother. The procedure and the methods were botched, to say the least.

The mission delegates were able to consult two of the of the procedural acts. Some parts require explanations. (1) The certificate on the cause of the death: the doctor just drew a line next to "cause of death" as if there was nothing to mention, despite the visible burns on Eric's body, as described by the first people who discovered the body. (2) The summons to provide testimony, which the investigating judge used to call in Eric's mother, sister and brother not as plaintiffs or witnesses, despite the wording of the convocation, but, "to be charged and interrogated for aggravated theft of which they are accused".

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More than a year and a half after the murder of Eric Ohena Lembembe, the judicial investigation is at a standstill. The attitude of the courts in this case and in other referrals that have led nowhere summarise the passive role of the courts and tribunals in protecting defenders of LGBTI persons' rights. The inertia of the Cameroonian authorities in this case is especially worrisome since it could make the perpetrators of crimes and persecution of LGBTI persons think they can get off scot-free. This will add to stigma and discrimination against LGBTI persons and the defenders of their rights.

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## IV. CONCLUSIONS AND RECOMMENDATIONS

The criminalisation of homosexuality, and the homophobia exacerbated by statements by representatives of the political and religious authorities, and also by the media create legal and physical insecurity for the defenders of LGBTI persons' rights.

Although their actions are protected by international, regional and national law, they are threatened, insulted, harassed and are subjected to violence that can even lead to assassination.

The administration, the police and the judiciary make their precarious situation worse by refusing to register LGBTI persons' rights associations, acting as accomplices in arbitrary arrests and ignoring complaints against the perpetrators of violations of the rights of the defenders of LGBTI persons' rights.

Procedural irregularities and the superficiality of the investigation in the Eric Ohena Lembembe murder case stoked international indignation and illustrated the extremely precarious situation of the defenders of LGBTI persons' rights in Cameroon.

The African Commission on Human and Peoples' Rights (ACHPR), the body charged with the protection of the rights guaranteed in the African Charter on Human and Peoples' Rights expressed concern about the situation of LGBTI persons and their defenders in Africa. The Cameroonian authorities must respect its recommendations by ensuring the safety and the rights of all Cameroonian citizens, without discrimination.

In order to reinforce the protection of human rights defenders, our organisations recommend:

### **To the Cameroonian authorities to:**

- Respect the rights guaranteed by the international and regional instruments for the protection of human rights, ratified by Cameroon, in particular as concerns non-discrimination, freedom of association, the right to physical integrity, the ban on arbitrary arrest and detention, and the right of victims to a fair and equitable trial;
- Implement the recommendations of the international and regional instruments for the protection of human rights, in particular the 2013 concluding observations of the African Commission on Human and Peoples' Rights (ACHPR) following the examination of the State report of Cameroon and resolution no. 275 of 2014 on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity, and also the recommendations of the United Nations Human Rights Council prepared during the 2009 and 2013 cycles of the Universal Periodic Review (UPR) and the concluding observations of the United Nations Human Rights Committee in 2010 following the examination of the Cameroon State report;
- Respect the provisions of the 1998 United Nations Declaration on Human Rights Defenders, in particular:
  - Articles 1 and 2 that stipulate that: "Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, *inter alia*, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice";
  - Article 12, para. 2 and 3 of the Declaration that stipulates that: "The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration".

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- Invite the special rapporteurs of the United Nations and the ACHPR on human rights defenders and on the rights to freedom of peaceful assembly and of association;
  - Repeal article 347 bis of the Penal Code which criminalises homosexuality;
  - Hold public discourse on homosexuality based on non-discrimination, non-violence and freedom of association and expression;
  - Respect the law on NGOs, without discrimination towards associations that defend the rights of LGBTI persons;
  - Ensure equal access to justice and carry out thorough, reliable investigations on all cases of violence, aggression, swindling and other violations of the rights of human rights defenders;
  - Ensure that the investigation on the assassination of Eric Ohena Lembembe is carried out under optimal conditions, and that the persons responsible for the assassination are judged and convicted and that the family and lawyers are kept informed of progress made;
  - Set up a truly effective and efficient legal aid system, especially to serve vulnerable populations such as LGBTI persons;
  - Support initiatives and programmes of civil society organisations aiming at promoting human rights for all and fighting prejudice and all forms of discrimination.

**To the Cameroon Bar to:**

- Provide support for lawyers who are threatened and assaulted in Cameroon because of their work in defending LGBTI persons and for defenders of LGBTI persons' rights;
- Enter into partnership with foreign bar associations to assist with the implementation of legal aid measures and particularly the defence of LGBTI persons and defenders of their rights.

**To the religious authorities and the media in Cameroon to:**

- Keep public discourse on homosexuality based on non-discrimination, non-violence and freedom of association and expression.

**To the civil society organisations to:**

- Start initiatives designed to improve interaction between general human rights NGOs and the LGBTI NGOs to strengthen overall protection of all human rights and especially the rights of LGBTI persons and their defenders.

**To the States, development partners and donors to:**

- Denounce all discriminatory legislation and practices and call for them to be repealed;
- Condemn violations of the rights of LGBTI persons' rights defenders;
- Evaluate the needs of activists and dedicated organisations in Cameroon in terms of actions and security and provide technical and financial support to meet these needs;
- With regard to the European Union and its member States, implement the EU Guidelines on Human Rights Defenders and guidelines on the protection of defenders of LGBTI persons' rights;
- Support initiatives and programmes of civil society organisations aiming at promoting human rights for all and fighting prejudice and all forms of discrimination.

**To the African Commission on Human and Peoples' Rights (ACHPR) to:**

- Encourage decriminalisation of homosexuality and the protection of the rights of defenders of LGBTI persons' rights, and grant observer status to associations for the defence of LGBTI persons' rights.

**To the United Nations bodies for the protection of human rights to:**

- Continue to encourage Cameroon to decriminalise homosexuality and protect the rights of defenders of LGBTI persons' rights.





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The *Maison des Droits de l'Homme du Cameroun* was created under the provisions of Law no. 90/053 of 19 December 1990 on freedom of association in Cameroon. The MDHC is a coalition of civil society associations. Its head office is in Douala, on the coast of Cameroon.

The MDHC is focused on the defence and promotion of principles set out in the 1948 Universal Declaration of Human Rights and supports advocacy for social justice, democracy, good governance and human rights.

MDHC responds to requests from its member organisations, or any groups that are part of such organisations. Responses may be in the form of investigations, observations, denunciations, and inquiries at the local, regional and international levels. It provides support for victims of human rights violations by listening, providing advice and legal representation.

The head of MDHC is selected by 11 civil society organisations that have entrusted this task to the Christian Action for the Abolition of Torture in the coastal region of Cameroon (ACAT-Littoral).

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The Human Rights Defenders Network in Central Africa (REDHAC) is composed of national coalitions, human rights associations and NGOs, and other human rights defenders such as lawyers, journalists, etc., in compliance with the 1998 United Nations Declaration on Human Rights Defenders, the 2003 Kigali Declaration and the 1999 Grand Bay (Mauritius) Declaration and Plan of action.

REDHAC was created in 2007 to improve the status of defenders, train and support them, create solidarity amongst them and defend their rights under all circumstances in Central Africa. The REDHAC mission is to advocate and ensure that concrete actions (such as press releases, declarations, lobbying, etc.) are directed to the member States of Central Africa and the regional and international mechanisms for the purpose of obtaining recognition of the defenders' daily work. This is essential for the establishment of democracy and respect for human rights in Central Africa.

The goals of REDHAC are:

- Capacity-building for defenders and for their work in the field by providing various types of support;
- Ensuring, by all possible means, the protection and safety of human rights defenders;
- Advocate to decision-makers and partners for recognition of the status of human rights defenders.

The network is operational in eight countries in Central Africa, namely, Cameroon, Central African Republic (CAR), Chad, Republic of Congo, Democratic Republic of Congo (DRC), Equatorial Guinea, Gabon, and Sao Tomé and Príncipe.

REDHAC holds observer status at the African Commission for Human and Peoples' Rights (ACHPR) and is a member of the steering committee of the Forum of NGOs that meets prior to the ordinary sessions of the ACHPR. It is a member of the Board of the Pan-African Network of Human Rights Defenders and a member of the Coalition for an Effective African Court on Human and Peoples' Rights.

REDHAC has close to 250 members in Central Africa and five full-time employees.

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The African Men for Sexual Health and Rights (AMSHer) was created in 2009 as a regional coalition comprised of 18 MSM/LGBT-led member organisations in 15 African countries that represent the whole continent. Its mission is to provide a response to the:

- Disproportionate effect of the HIV epidemic on the MSM;
- Human rights violations of these persons across the continent; and
- Insufficient attention given in policies and services to the issues faced by MSM/LGBTI at the global, regional and local levels.

Despite well-established evidence of the increased vulnerability of MSM's to HIV infection in Africa, the government responses and policies throughout Africa to fight this situation are among the world's least effective. To cope with this situation, AMSHer has adopted four strategies:

- Advocate for the protection of LGBTI people from human rights violations, in particular through the implementation of protective legal and policy frameworks;
- Strengthen the capacity of national agencies and individuals working to improve policy, legislation and programming related to MSM sexual & reproductive health;
- Identify, advocate and increase access for greater resources, including technical and financial, and for better access to HIV prevention, treatment and care services;
- Facilitate the creation and dissemination of a database for a better human rights-based response to HIV in MSM communities.

AMSHer carries out its mission by advocating, sharing information, building up synergies and exchanging advocacy tools and strategies within other human rights movements, including movements that fight discrimination on the basis of sexual orientation, gender, gender identity and HIV/AIDS status primarily in Africa but also around the world. AMSHer is working to fulfil its mission to build "a community of MSM who are healthy and independent, with human rights for all".

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### **Establishing the facts**

Investigative and trial observation missions

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis.

FIDH has conducted more than 1,500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

### **Supporting civil society**

Training and exchanges

FIDH organises numerous activities in partnership with its member organisations, in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to boost changes at the local level.

### **Mobilising the international community**

Permanent lobbying before intergovernmental bodies

FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to violations of human rights and refers individual cases to them. FIDH also takes part in the development of international legal instruments.

### **Informing and reporting**

Mobilising public opinion

FIDH informs and mobilises public opinion. Press releases, press conferences, open letters to authorities, mission reports, urgent appeals, petitions, campaigns, website... FIDH makes full use of all means of communication to raise awareness of human rights violations.

17 passage de la Main-d'Or - 75011 Paris - France

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**Created in 1985, the World Organisation Against Torture (OMCT) is the main international coalition of non-governmental organisations (NGOs) fighting against torture, summary executions, enforced disappearances, arbitrary detentions and all other cruel, inhuman and degrading treatment or punishment.** The strength of OMCT lies in its SOS-Torture Network composed of 311 NGOs from around the world.

### **Assisting and supporting victims**

OMCT supports victims of torture to obtain justice and reparation, including rehabilitation. This support takes the form of legal, medical and social emergency assistance, submitting complaints to regional and international human rights mechanisms and urgent interventions.

OMCT pays particular attention to certain categories of victims, such as women and children.

### **Preventing torture and fighting against impunity**

Together with its local partners, OMCT advocates for the effective implementation, on the ground, of international standards against torture.

OMCT is also working for the optimal use of international human rights mechanisms, in particular the United Nations Committee Against Torture, so that it can become more effective.

### **Protecting human rights defenders**

Often those who defend human rights and fight against torture are threatened. That is why OMCT places their protection at the heart of its mission, through alerts, activities of prevention, advocacy and awareness-raising as well as direct support.

### **Accompanying and strengthening organisations in the field**

OMCT provides its members with the tools and services that enable them to carry out their work and strengthen their capacity and effectiveness in the fight against torture.

OMCT presence in Tunisia and Libya is part of its commitment to supporting civil society in the process of transition to the rule of law and respect for the absolute prohibition of torture.

8 rue du Vieux-Billard - PO Box 21 - CH-1211 Geneva 8 - Switzerland



### Activities of the Observatory

The Observatory is an action programme based on the belief that strengthened co-operation and solidarity among human rights defenders and their organisations will contribute to break the isolation they are faced with. It is also based on the absolute necessity to establish a systematic response from NGOs and the international community to the repression of which defenders are victims.

With this aim, the Observatory seeks to establish:

- a mechanism of systematic alert of the international community on cases of harassment and repression of defenders of human rights and fundamental freedoms, particularly when they require urgent intervention;
- the observation of judicial proceedings, and whenever necessary, direct legal assistance;
- international missions of investigation and solidarity;
- a personalised assistance as concrete as possible, including material support, with the aim of ensuring the security of the defenders victims of serious violations;
- the preparation, publication and world-wide dissemination of reports on violations of the rights and freedoms of individuals or organisations working for human rights around the world;
- sustained action with the United Nations and more particularly the Special Rapporteur on Human Rights Defenders, and when necessary with geographic and thematic Special Rapporteurs and Working Groups;
- sustained lobbying with various regional and international intergovernmental institutions, especially the Organisation of American States (OAS), the African Union (AU), the European Union (EU), the Organisation for Security and Co-operation in Europe (OSCE), the Council of Europe, the International Organisation of the Francophonie (OIF), the Commonwealth, the League of Arab States, the Association of Southeast Asian Nations (ASEAN) and the International Labour Organisation (ILO).

The Observatory's activities are based on consultation and co-operation with national, regional, and international non-governmental organisations.

With efficiency as its primary objective, the Observatory has adopted flexible criteria to examine the admissibility of cases that are communicated to it, based on the "operational definition" of human rights defenders adopted by FIDH and OMCT: "Each person victim or at risk of being the victim of reprisals, harassment or violations, due to his or her commitment, exercised individually or in association with others, in conformity with international instruments of protection of human rights, to the promotion and realisation of the rights recognised by the Universal Declaration of Human Rights and guaranteed by the different international instruments".

**To ensure its activities of alert and mobilisation, the Observatory has established a system of communication devoted to defenders in danger. This system, called Emergency Line, can be reached through:**

E-mail: [Appeals@fidh-omct.org](mailto:Appeals@fidh-omct.org)

FIDH Tel: + 33 1 43 55 25 18 Fax: + 33 1 43 55 18 80

OMCT Tel: + 41 22 809 49 39 Fax: + 41 22 809 49 29