

Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations

Promoting human rights by protecting those who defend them

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Dear Mr. President, Prime Minister and Minister of Justice,

Re: Death of Roger MBEDE and Cameroon's failure to comply with legal duties to prevent, punish and remedy violations of internationally protected rights.

We write on behalf of Lawyers' Rights Watch Canada (LRWC), a committee of Canadian lawyers who promote human rights and the rule of law internationally through education, legal research and advocacy.

LRWC is appalled by the death of Roger Jean-Claude MBEDE, who died in January 2014 at the age of 34 in his hometown after reportedly being refused necessities, including medical care. He was suffering from a hernia and needed medical treatment.

In 2011, Mr. MBEDE was convicted and sentenced to three years' imprisonment under Penal Code provisions criminalizing homosexuality. The conviction was based on Mr. MBEDE peacefully exercising his freedom of expression by sending a text message—*viz*, I am very much in love with you—that was interpreted as being criminal. His appeal was dismissed in December 2012. From the time charges were laid, Mr. MBEDE was targeted with death threats and while in prison suffered malnutrition and assaults. His lawyers Alice NKOM, Michel TOGUE and Saskia DITISHEIM were threatened with murder and harm to their families for defending Mr. MBEDE's legal rights. To our knowledge, Cameroon did not provide any protection to Mr. MBEDE or his lawyers despite having received requests from LRWC and others to do so on an urgent basis.

LRWC is deeply concerned that Cameroon's failure to take any action to ensure the internationally protected rights of people to equality and non-discrimination regardless of sexual orientation was a contributing factor to the death of Mr. MBEDE.

Cameroon has been repeatedly called on to decriminalize sexual acts between consenting adults; to address social prejudice and the stigmatization of homosexuality; to promote tolerance; and to prevent and punish any harassment, discrimination and violence against individuals because of their sexual orientation in order to comply with provisions of the *International Covenant on Civil and Political Rights* (ICCPR) and the *Universal Declaration of Human Rights* (UDHR).

These recommendations have been made by, *inter alia*, the United Nations Human Rights Committee (HR Committee),¹ the UN Working Group on Arbitrary Detention,² and the UN Working Group on Universal Periodic Review.³ Decriminalization of homosexuality as a necessary measure to comply with ICCPR provisions was called for during the UPR of Cameroon by Spain, Uruguay, Canada, France, Germany, the Netherlands and Mexico. Canada, Germany and Mexico also called on Cameroon to eliminate prejudice and prevent violence against homosexuals and other members of the LGBTI community. LRWC provided authorities with a summary of Cameroon's domestic and international law duties to comply with these recommendations in [previous correspondence](#), including our letter of 16 January 2013.

During the Universal Periodic Review process in 2013, Cameroon replied to these recommendations and statements of concern by stating that “homosexuals were not persecuted” and that instances of persecution were “quantitatively negligible.” Also in error, the Cameroon delegation asserted that a State could limit a protected freedom for the purpose of “meeting the just requirements of morality, public order and the general welfare in a democratic society”. The death of Mr. MBEDE belies the accuracy of the first statement. The illegitimacy of the second assertion—moral considerations as a justification for rights violations—has been established. In the 1994 *Toonen v. Australia* decision, the HR Committee ruled that it could not “...accept either that for the purposes of article 17 of the Covenant, moral issues are exclusively a matter of domestic concern, as this would open the door to withdrawing from the Committee's scrutiny a potentially large number of statutes interfering with privacy.” In 2004 the HR Committee went on to reject political, social, cultural, or economic considerations as a justification for a state's failure to adopt measures that give effect to protected rights.⁴

LRWC is deeply concerned by the failure of Cameroon to respect its international law obligations to ensure equality, non-discrimination and privacy rights of all. LRWC fully supports the HR Committee's 2010 recommendations that Cameroon immediately take steps to: a/ decriminalize consensual sexual acts; b/ promote acceptance; and, c/ prevent discrimination.

The State party should take immediate steps towards decriminalizing consensual sexual acts between adults of the same sex, in order to bring its law into conformity with the Covenant. The State party should also take appropriate measures to address social prejudice and stigmatization of homosexuality and should clearly demonstrate that it

¹ See: Concluding Observations of the Human Rights Committee – Cameroon, 4 August 2010, CCPR/C/CMR/CO/4, para. 12; *Toonen v. Australia*, Communication No. 488/1992, U.N. Doc CCPR/C/50/D/488/1992 (1994); and, *General Comment No. 31 [80] Nature of the General Legal Obligation Imposed on States Parties to the Covenant: 05/26/2004.CCPR/C/21/Rev.1/Add.13*, (General Comments).

² Implementation of General Assembly Resolution 60/251 of 15 March 2006 Entitled “Human Rights Council, Opinions adopted by the Working Group on Arbitrary Detention, A/HRC/4/40/Add.1A/HRC/4/40/Add.1, 2 February 2007, page 94, paras. 19 & 23.

³ Report of the Working Group on the Universal Periodic Review of Cameroon, A/HRC/24/15, 15 July 2013.

⁴ *General Comment No. 31 [80] Nature of the General Legal Obligation Imposed on States Parties to the Covenant: 05/26/2004.CCPR/C/21/Rev.1/Add.13*. (General Comments), para. 14.

does not tolerate any form of harassment, discrimination and violence against individuals because of their sexual orientation.⁵

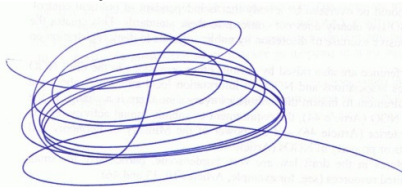
By failing to promote acceptance of, and prohibit harassment, discrimination and violence against homosexuals, Cameroon encourages persecution and participates in a policy of impunity. These failures not only violate protected rights to equality, non-discrimination and privacy, but also contravene Cameroon's legal obligations to respect and ensure the enjoyment of all protected rights by all individuals, as required by the ICCPR.

LRWC urges Cameroon to comply with the ICCPR and UDHR and to immediately:

1. Decriminalize homosexuality and repeal Penal Code Article 347*bis*;
2. Combat social prejudice and the stigmatization of homosexuality through public statements promoting tolerance and through education about rights to equality and non-discrimination;
3. Prevent and punish any harassment, discrimination and violence against individuals because of their sexual orientation;
4. Adopt policies to effectively prevent, investigate, punish and provide protection from crimes against LGBTI;
5. Publish a statement from the President that unequivocally condemns attacks on LGBTI and confirms that such actions will be punished;
6. Conduct an open and independent investigation into the death of Roger Jean-Claude MBEDE
7. Take steps to ensure all those who aided, abetted, counselled or otherwise contributed to the death of Mr. MBEDE, are identified and punished in accordance with the law. .

Thank you for your attention to the urgent matters raised in this letter. We look forward to your reply.

Sincerely,



Gail Davidson, Executive Director



Marion Caussanel, LRWC

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⁵ Concluding Observations of the Human Rights Committee Cameroon, 4 August 2010, CCPR/C/CMR/CO/4, para. 12.

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