

Immigration and Refugee Board of Canada

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> Responses to Information Requests

Responses to Information Requests

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website. Please note that some RIRs have attachments which are not electronically accessible. To obtain a PDF copy of an RIR attachment, please email the [Knowledge and Information Management Unit](#).

31 March 2016

CMR105449.E

Cameroon: Whether a Commissioner of Oaths or a notary public would notarize a statement or swear an affidavit regarding an individual's sexual orientation; documentation filed by police upon arrest for same-sex activity (2014-March 2016)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Affidavits Regarding Sexual Orientation

In correspondence with the Research Directorate, a representative from the des défenseurs des droits humains de l'Afrique centrale (REDHAC), a network of human rights NGOs from eight central African countries, including Cameroon, that campaigns for the release of imprisoned human rights defenders (REDHAC n.d.), stated that an individual cannot be publicly open about their sexual orientation because homosexuality is illegal in Cameroon according to the penal code (*ibid.* 22 Mar. 2016). Article 347 *bis* of the *Penal Code* states that

[translation]

Any person who has sexual relations with a person of the same sex shall be punished by imprisonment of six months to five years and a fine of 20,000 to 200,000 [CFA] francs [approximately C\$450]. (Cameroon 1967, Art. 347 *bis*)

The REDHAC representative indicated that communicating one's same-sex activity in Cameroon amounts to [translation] "condemning oneself in the eyes of the law" and would cause the individual to be rejected by their family (REDHAC 22 Mar. 2016). The same source noted that LGBT people in Cameroon never willingly admit their sexual orientation in court or to the police (*ibid.*). Similarly, in correspondence with the Research Directorate, a Cameroonian lawyer who advocates for the rights of LGBT persons stated that

[o]btaining an affidavit about their sexual orientation will almost be impossible [for LGBT persons] because society still holds the practice as a taboo. (Lawyer 27 Mar. 2016)

In a telephone interview with the Research Directorate, the President of the Association camerounaise pour la défense des droits de l'homme, des libertés et du bien-être (ACADEHLIB), a Cameroon-based NGO that denounces cases of human rights violations and organizes conferences on issues related to human rights (Portail humanitaire n.d.), stated that

[translation]

[i]n Cameroon, it is extremely rare for a lawyer or a notary public to sign a declaration or an affidavit by which an individual swears that they are bisexual or homosexual (or that they know of someone's sexual orientation), because no one makes this type of declaration, and because by signing this type of declaration, a

lawyer or a notary public would risk being considered a homosexual, which is punishable by law. (ACADEHLIB 24 Mar. 2016)

Similarly, the lawyer stated that

[i]t is uncommon if not impossible for ... a lawyer/notary public and specifically a commissioner of oaths to notarize a statement or swear an affidavit in which an individual swears to being bisexual or homosexual, or to knowing of someone's sexual orientation. (Lawyer 27 Mar. 2016)

The same source further explained that

[a] commissioner for oaths is a civil servant in Cameroon and since homosexuality is outlawed in Cameroon, ... he or she cannot notarize a statement or an affidavit in which an individual swears to being homosexual or bisexual. (ibid.)

According to the lawyer, "[s]ome lawyers/notary public ... (if paid a considerable amount) could take the risks and sign such statements or affidavits reluctantly or disdainfully" (ibid.). He added that at present, there are three lawyers in Cameroon who "could sign such statements or affidavit [willingly] because all three are defenders of LGBTI persons and [it] would appear they are willing and ready to take such risks involved" (ibid.).

In a fact-finding report on homophobia and violence against the defenders of LGBT rights in Cameroon, the World Organisation Against Torture (OMCT) and the Fédération internationale des ligues des droits de l'homme (FIDH) state that there are 2,500 members of the Cameroon Bar Association and that

[w]idespread, institutionalized 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 stigmatized by their colleagues and the society. (FIDH and OMCT Feb. 2015, 23)

According to the same source, "[t]hese lawyers, defenders of LGBTI persons' rights, are often threatened and since 2012 have been systematically harassed" (ibid.). In correspondence with the Research Directorate, the lawyer stated that only three lawyers, including himself, are willing to defend LGBT persons in Cameroon and that "all three have received and [are] still receiving death threats," adding that "in each case the lawyer's children's lives were also threatened" (Lawyer 27 Mar. 2016).

The President of ACADEHLIB indicated that the rarely reported cases of declarations of sexual orientation signed by LGBT persons are the result of [translation] "fraud," whereby the LGBT person "has signed a declaration against their own will" (ACADEHLIB 24 Mar. 2016). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2. Documentation Filed by Police upon Arrest for Same-sex Activity

Section 124 of the *Criminal Procedure Code* states that

1. The judicial police officer shall mention in his report the reasons for remanding the suspect in police custody, the length of time within which he was subjected to questioning, the interval of rest during questioning, the day and hours when he was either released or brought before the State Counsel.
2. The suspect shall sign the said entries ... Where he refuses to sign, the judicial police officer shall mention that fact in his report. (Cameroon 2005)

However, according to the lawyer, section 124 of the *Criminal Procedure Code* is not always implemented in matters concerning LGBT persons, "who often times are treated as outcasts" (Lawyer 27 Mar. 2016). The same source added that

[w]hether an LGBT person mentions his sexual orientation or not, the police report is often concluded or conclusive, and such reports are stamped or signed by the police. (ibid)

According to statements made by two oral sources, police in Cameroon often use physical violence to force an arrested individual to sign reports that they produce (ACADEHLIB 24 Mar. 2016; REDHAC 22 Mar. 2016). The REDHAC representative explained that the police [translation] "often obtain confessions [of homosexuality] through torture and other inhumane and degrading treatment" (ibid.).

The same source specified that an individual arrested for same-sex activity cannot obtain the report on the investigation but that their lawyer may obtain a copy of it upon request (ibid.). Similarly, the lawyer indicated that the report is

not given to suspects be they [an] LGBT person or not, with exception being proceedings relating to [Preliminary Inquiry], where upon request by way of an application by counsel for defence, such documentations could be made available to him or her on behalf of [the] suspect. (Lawyer 27 Mar. 2016)

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

References

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Additional Sources Consulted

Oral sources: Aids-ACODEV-Cam; Alternatives-Cameroun; Association pour la défense des homosexuel(le)s; Avocats sans frontières Cameroun; Maison des droits de l'homme du Cameroun.

Internet sites, including: Amnesty International; ecoi.net; Freedom House; Human Rights Watch; UN – Refworld.

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