

I. EXECUTIVE SUMMARY

Eric Ohena Lembembe didn't turn up to a meeting he had organized. Members of a group that defend the rights of LGBT people and those infected with and affected by HIV/AIDS—went to his house Monday evening after failing to reach him by phone all weekend. They found the door padlocked from the outside; through a window, they could see Lembembe's body on the bed. When the police broke the door down, they found that Lembembe's body bore signs of torture. His neck and his feet were broken...His face, hands, and feet had been burned with a clothes iron.

– Neela Ghoshal, Senior Researcher on LGBTI rights at Human Rights Watch.

1. The Government of Cameroon participates in and condones discrimination against people on the basis of perceived and actual sexual orientation and gender identity. In addition to criminalizing consensual same-sex sexual relations, the Cameroonian Government fosters a climate of impunity for officials and other persons who abuse, torture, and murder people who are lesbian, gay, bisexual, transgender, or intersex (LGBTI).¹
2. This report provides an overview of changes since Cameroon's Universal Periodic Review in 2013 and concludes that the Government of Cameroon has continuously failed to uphold its human rights obligations with respect to minorities of sexual orientation and gender identity. Each subpart of the report reviews an area that requires immediate attention by the Cameroonian government: legal environment, violence by law enforcement, access to justice, access to health care, and freedom of assembly.

II. BACKGROUND AND FRAMEWORK

A. 2013 Universal Periodic Review

1. *Repeal laws criminalizing sexual orientation and combat persecution based on sexual orientation and gender identity*

Status of Implementation: Not Accepted, Not Implemented

3. During Cameroon's Universal Periodic Review in 2013, Cameroon received 15 recommendations regarding its treatment of LGBTI people. Spain, Uruguay, Argentina, along with many other states, urged Cameroon to repeal criminal provisions based on sexual orientation and gender identity. Cameroon rejected these recommendations, including:²
 - *Protect LGBTI from violence from other members of the society and fight against prejudices against LGBTI persons by awareness raising campaigns.*
 - *Adopt appropriate measures to tackle social prejudices, stigmatization, harassment, discrimination and violence against individuals because of their sexual orientation.*
 - *Respect article 12 of the Constitution, which protects privacy, and eliminate abuses of this article that lead to arbitrary arrests and prosecutions on charges related to consensual same sex relations.*
 - *Release from detention individuals convicted of those offences.*

- *Ensure adequate protection of defenders of human rights that help LGBT persons.*
4. Replying to the questions concerning homosexuality more broadly, the delegation of Cameroon noted that “Cameroonian society did not yet accept homosexuality as normal behaviour and that attitudes would change over time.” The Cameroon delegation indicated that homosexuals were not persecuted and the “quantitatively negligible” incidents should be “put into perspective.”³

2. Investigate police violence based on sexual orientation

Status of Implementation: Accepted, Not Implemented

5. Cameroon accepted only one recommendation – the recommendation to “investigate police violence that takes place on people because of their actual or perceived sexual orientation.” It has not implemented this recommendation.

3. Ensure fair trial rights and eliminate discriminatory measures

Status of Implementation: Pledged, Not Implemented

6. As part of the 2013 UPR, Cameroon made a voluntary pledge stating that, regarding the issue of homosexuality, Cameroon was committed not to aggravate current criminal penalties, to continue to apply legal provisions, guarantee a fair trial to alleged homosexuals, and continue not to apply any discriminatory measure against them.⁴
7. Following international pressure and national advocacy, many suspected that Article 347 bis, Cameroon’s law criminalizing homosexuality, would be used less frequently against LGBTI Cameroonians simply for being gay.⁵ However, according to data collected by Alternatives-Cameroun and Humanity First, the number of reported attacks and violence against the LGBTI population in Cameroon has been steadily increasing since 2012.⁶ While there was a temporary decline in reported arrests by law enforcement in 2015, the number of reported arrests more than tripled in 2016.⁷ Cameroon remains hostile and dangerous to LGBTI people with 183 anti-LGBTI attacks and violations reported during 2016.⁸ As Yves Yomb, of Alternatives-Cameroun noted, although the number of LGBTI people in prison in Cameroon had decreased, “we still encounter many cases of scams, blackmail, entrapment, physical violence.”⁹
8. Human rights defenders hoped to see developments in the investigations into the brutal killing of CAMFAIDS (the Cameroonian Foundation for AIDS) leader Eric Ohena Lembembe, along with the death threats against lawyers who defend LGBTI clients, which have not come to fruition.

B. Domestic Legal Framework

9. Cameroon is one of 33 African countries in which same-sex conduct is punishable by law.¹⁰ Under Article 347-1 (formerly referenced as “347 bis”) of the Cameroon Penal Code, an individual can be punished for “sexual relations with a person of the same sex” and be sentenced to a term of six months to five years with a fine of 20,000 to 200,000 CFA (equivalent to \$40 to \$400 US dollars). Authorities routinely arrest, detain and torture individuals because of their real or perceived sexual orientation.¹¹

10. Cameroonian law also criminalizes homosexual electronic exchanges. Law No. 2010/012/ of 21st December 2010 Relating to Cybersecurity and Cybercriminality in Cameroon. Article No. 83 states that anyone who, by means of electronic communication, makes a sexual proposal to a person of the same sex is subject to imprisonment for 1 to 2 years and/or a financial penalty of 500,000 to 1,000,000 CFA.¹² These sentences are doubled if the sexual offer is acted upon.
11. One serious gap in Cameroonian law is that Article 296 of the Penal Code, which criminalizes rape, only applies to female victims.¹³ The limited definition of rape may lead some law enforcement officials to believe that the best way to address rape between persons of the same sex is to charge the perpetrator with “homosexuality” under Article 347-1.
12. Cameroon’s constitution integrates international treaties that Cameroon has ratified, including the International Covenant on Civil and Political Rights, into the law of the land, and states that when international law conflicts with Cameroonian law, international law takes precedence.¹⁴
13. In 2016, President Paul Biya signed into law the new penal code adopted by the parliament. The new penal code maintains the content of the original Article 347-bis, which is now renamed Article 347-1. By retaining this provision, the Cameroonian government has both reinforced the law and made a constitutional challenge to the law more difficult. The 1996 constitution states that all penal laws are to be voted by the parliament. Because the original Article 347-bis had been passed through a presidential act in 1972, the law was open to constitutional attack. Following the parliamentary vote, the law is no longer constitutionally suspect from a procedural perspective. Data collected by Alternatives-Cameroun reflect an increase in the enforcement of Article 347-1, with 35 reported arrests in 2016.

III. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

Prohibition of torture and cruel, inhuman or degrading treatment

14. In 2013, the UN Human Rights Committee expressed concern about police in Cameroon violating their own Code of Criminal Procedure – in the manner in which they arrest persons suspected of homosexuality. While Article 347-1 applies only to individuals caught in the act of same-sex sexual conduct, most of the persons arrested under the Article were arrested on the basis of mere suspicion; often without arrest warrants; and at all times of day and night, rather than during the hours in which arrest warrants can legally be enforced.
15. A 2013 Human Rights Watch Report noted various due process violations and other human rights violations committed in Cameroon in the process of arresting and prosecuting people for consensual same-sex conduct.¹⁵ Recent press releases from Alternatives-Cameroun indicate that police continue to employ psychological torture to solicit confessions and incite violence. Since the adoption of the revised penal code in 2016, the rate of arrests in the city of Douala has increased. Between January and March 2017, Alternatives-Cameroun recorded 7 cases, involving 9 people, for homosexuality-related offenses. This figure marks an uptick over the twelve total cases in the city in 2016.¹⁶
16. The preliminary results of a study by Alternatives-Cameroun of 204 lesbians and gay men show that 62% of respondents have faced insults or taunts, while 33% of men and 28% of women had faced physical violence based on their sexual orientation or gender identity.¹⁷

The data also supports the need for Cameroon to expand the crime of rape under its penal code to include male victims, as 12% of men and 19% of women respondents reported having been raped.¹⁸

17. Alternatives-Cameroun has documented the failure of law enforcement to hold accountable private parties who commit acts of violence and torture against people based on their actual or presumed sexual orientation or gender identity.¹⁹ For example, in February 2017, a Cameroonian police officer impersonated a gay man and initiated a meeting with a Senegalese young person.²⁰ When the Senegalese man arrived, the police officer incited the neighborhood to assault him.²¹ After the young person was beaten, the police officer brought him into custody, held him for two days, and then released him without charge.²² The police made no effort to hold anyone accountable for the violence perpetrated against the victim.²³
18. Jean-Claude Roger Mbede was arrested in March 2011, convicted of “homosexuality and attempted homosexuality” after sending a text to a man saying that he was in love with him.²⁴ Throughout his three-year sentence, he experienced malnutrition and regular beatings.²⁵ He was granted a provisional release on July 16, 2012, while his lawyers appealed his case; however, in January 2014 he died while in hiding in his home. In an article announcing his death Amnesty International wrote, “The Cameroonian authorities’ harsh treatment of LGBTI individuals like Jean-Claude, and his society’s callous indifference to their suffering- and even death- are indicative of a wider, and growing, problem in many African countries today.”²⁶
19. In 2017, Marc-Henri Bata died from complications of a psychiatric condition that was caused by trauma in prison.²⁷ Human Rights Watch documented his case in a 2013 report, noting that he had been arrested in September 2010 after a search pursuant to a housemate’s arrest for theft of a laptop.²⁸ When gendarmes discovered condoms and lubricant, they arrested Marc-Henri and interrogated him about his alleged homosexual conduct.²⁹ He was convicted of “homosexuality” and sentenced to six months in prison and a fine of 39,300 CFA.³⁰ He was released in April 2011.³¹ According to Alternatives-Cameroun, Marc-Henri never recovered from the extremely violent prison environment and the trauma he faced there.³² According to Alternatives-Cameroun, he was reported to have overdosed on medication.³³
20. In general, some LGBTI people are more vulnerable than others to discrimination, harassment and violence by state authorities, due to their economic situation, class, sex or race.³⁴ The ability to evade or pay off law enforcement officials varies greatly depending on the individual’s economic status. Poorer LGBTI individuals are more vulnerable in case of arrest and are less likely to access health care.³⁵ Some individuals accused of homosexuality lack legal representation, and as a result torture, cruel treatment, and due process violations committed against them often do not come to light.

Right to liberty and security

21. Alternatives-Cameroun and a partner organization have documented increased violations of the right to liberty and security since the last UPR of Cameroon. For example, in all of 2013 there were 9 arrests based on sexual orientation and gender identity in the cities of Yaoundé and Douala, while in 2014 that number jumped to 41, in 2015 it was 14, in 2016 it was 35, and from January through September 2017 it was 14.³⁶ Alternatives-Cameroun documented 29 cases of physical, psychological, and/or sexual violence based on sexual orientation or gender identity in those cities in 2013, while that number jumped to 55 in 2014, 66 in 2015,

80 in 2016, and 54 from January through September 2017.³⁷ Alternatives-Cameroun documented 8 cases of blackmail, extortion, or similar scams targeting people based on sexual orientation or gender identity in those cities in 2013, while that figure rose to 16 in 2014, 24 in 2015, 68 in 2016, and 22 from January through September 2017.³⁸

22. Two members of Alternatives-Cameroun fled the country after experiencing a great deal of social pressure due to their sexual orientation. They died at sea while attempting to escape.
23. Since 2013, Alternatives-Cameroun has also documented in those cities 8 cases of physical and/or psychological violence targeting human rights defenders working on LGBTI issues, as well as 4 cases of blackmail, extortion, or similar scams targeting such human rights defenders during that period.³⁹

Rights related to name, identity, nationality.

24. Intersex and transgender individuals face unique issues. For instance, birth registration proves difficult when the child's sex is not clearly determined at birth. Some families, lacking government guidance, recognition, and support for intersex children, simply fail to register the birth of their child. Other families decide to assign a gender, which may prove inconsistent with the secondary sexual characteristics the child develops later on.⁴⁰ These registration issues have many implications for the child's future, including discrimination and social pressures, as well as the inability to get other forms of government identification and enroll in the school system. Based on Alternatives-Cameroun's experience in the field, children and adults seeking to obtain valid forms of identification consistent with the individual's gender identity face an unclear and difficult process.

Right to health

25. In 2013, the Human Rights Committee expressed concern about Cameroon having insufficient measures to uphold the right to health care for LGBTI people. Although its National Strategic Framework on HIV, AIDS, and STIs recognized the need to reach key populations such as men who have sex with men (MSM), Cameroon did not currently have HIV programs targeting their particular needs. UNAIDS, a Joint United Nations Program on HIV/AIDS, identifies MSM as a key population that should be specifically targeted in HIV prevention work.⁴¹ The criminalization of homosexuality perpetuates stigma and drives LGBTI people underground, making them less likely to seek out treatment and prevention services. UNAIDS found that health centers in Cameroon have turned away clients on the basis of their presumed sexual orientation. Sexual minorities are often afraid to seek services, for fear of their sexual orientation being exposed.⁴² According to one researcher, LGBTI people in Cameroon still receive almost no substantial prevention funds or funding for access to needed medical services. While the Cameroon National Association for Family Welfare receives a grant from the Global Fund which should cover HIV prevention work and access to medical care targeted at gay men and other MSM, in practice the organization failed to spend a large share of the funds allocated to that work.⁴³
26. Amnesty International reported in 2013 that LGBTI people in Cameroon are often reluctant to seek testing or treatment for HIV/AIDS due to fear of the doctors breaching confidentiality and denouncing them as homosexuals to their families and members of community.⁴⁴ According to preliminary 2016 Integrated Bio-Behavioral Survey (IBBS), disclosure of

same-sex behavior to healthcare workers was low (7.8%). Perceived stigma was also a reason for being afraid (13.8%) or avoiding healthcare services (13.5%).⁴⁵

27. Alternatives-Cameroun has also documented the detrimental effects of discrimination and persecution on the mental health of LGBTI Cameroonians. For example, 32% of gay men and 30% of lesbian women in a recent survey scored as having severe depression.⁴⁶ As described in paragraph 19, one man endured severe psychological trauma from the violent prison environment, ultimately overdosing on medication.

Freedom of Assembly, Association and Expression

28. While the Cameroonian government does not publicly prevent the LGBTI community from meeting, public assembly or association is risky for LGBTI people due to potential attacks and the failure of police to intervene. In January 2015, the advocacy group CAMFAIDS reported an attack against a trans woman by a group of 15 people armed with stones and clubs in Yaoundé.⁴⁷ In February of 2017, Alternatives-Cameroun reported that a 26-year-old Senegalese man was assaulted by a group of people in Douala, with the complicity of Cameroonian police.⁴⁸

Human rights education and training

29. According to a 2017 survey by Alternatives-Cameroun of 204 lesbians and gay men, knowledge of LGBTI rights is almost non-existent among that population.⁴⁹

Human rights defenders

30. Alternatives-Cameroun has documented four arrests of human rights defenders working on LGBTI issues since the last UPR of Cameroon in the cities of Yaoundé and Douala alone.⁵⁰ As noted above in paragraph 21, these human rights defenders also face violence and extortion.

IV. RECOMMENDATIONS

31. This stakeholder report suggests the following recommendations for the Government of Cameroon:
- Decriminalize consensual same-sex conduct, striking Article 347-1 from the Penal Code.
 - Release all prisoners who are currently detained on the basis of sexual orientation.
 - Until Article 347-1 is repealed, instruct the Ministry of Justice to issue a directive to the general prosecutor to cease arrests and prosecutions under the article.
 - Abrogate Article 83 of the Law No. 2010/012/ of 21st December 2010 Relating to Cybersecurity and Cybercriminality in Cameroon.
 - Require arrest warrants for arrests under Article 347-1 and restrict the hours for such arrests.
 - Hold private parties accountable for violence targeting people based on sexual orientation and/or gender identity.
 - Ensure that all law enforcement officers comply with Articles 27-31 and 40-41 of the Code of Conduct for National Security Officers.
 - Amend Article 296 of the Penal Code, which criminalizes rape, to apply to male victims.
 - Ensure adequate protection of defenders of human rights that help LGBTI persons.

- Adopt appropriate measures to tackle social prejudices, stigmatization, harassment, discrimination and violence against individuals because of their sexual orientation.
- Assist LGBTI people who are more vulnerable to discrimination, harassment, and violence because of their economic situation, class, sex or race.
- Undertake public actions aimed at increasing access to health care for the LGBTI community.
- Clarify procedures of establishing official documents for gender diverse people.
- Include gender and sexuality concerns, specifically LGBTI concerns, and health information in university and medical school curricula.
- In consultation with local human rights defenders, adopt a charter for human rights defenders providing for support and protection in the context of their work.
- Criminalize hate speech, including hate speech targeting LGBTI individuals.
- Implement the calls to action of Resolution 275 of the African Commission on Human and Peoples' Rights regarding human rights defenders and violence and abuse targeting persons on the basis of imputed or actual sexual orientation or gender identity.⁵¹

¹ The Advocates for Human Rights, the Cameroonian Foundation for AIDS, *Le Réseau des Défenseurs des Droits Humains en Afrique Centrale, L'Association pour la Défense des Droits des Homosexuels, Report on the Violation of Rights on the Basis of Sexual Orientation and Gender Identity in the Republic of Cameroon Under the African Charter on Human and Peoples' Rights in Response to the Third Periodic Report of the Republic of Cameroon*, 53 Session of the ACHPR Commission, (Aug. 2013), available at: http://www.theadvocatesforhumanrights.org/uploads/cameroon_african_commission_lgbti_rights_october_2013.pdf (last visited Sept. 11, 2017).

² *Report of the Working Group on the Universal Periodic Review: Cameroon* (July 5, 2013), U.N. Doc. A/HRC/24/15.

³ *Id.* at ¶ 57.

⁴ UPR-Info.org, Database of Recommendations: Cameroon, 2nd Cycle, Voluntary Pledge.

⁵ Erasing 76 Crimes, *LGBTI life improves in homophobic Cameroon*, July 28, 2015, <https://76crimes.com/2015/07/28/lgbti-life-improves-in-homophobic-cameroon/>

⁶ Alternatives-Cameroun and Humanity First, Statistics on violence and violations based on sexual orientation and gender identity in Cameroon (2012-2017), on file with Alternatives-Cameroun.

⁷ *Id.*

⁸ *Id.*

⁹ *Supra* note 5. According to a preliminary 2016 Integrated Bio-Behavioral Survey (IBBS), the most negative experiences related to having sex with men reported by MSM were being blackmailed (22.6%), being arrested (14.7%), verbal harassment (14.8%). MSM experience some exclusion (8%) and discrimination (13.9%) from family members. Report on file with Alternatives-Cameroun.

¹⁰ International Lesbian, Gay, Bisexual, Trans and Intersex Association: Carroll, A. and Mendos, L.R., *State Sponsored Homophobia 2017: A world survey of sexual orientation laws: criminalisation, protection and recognition* (Geneva; ILGA, May 2017).

¹¹ Amnesty International, *Cameroon: End Impunity for Grave Human Rights Violations*, January 24, 2013, <https://www.amnesty.org/en/latest/news/2013/01/cameroon-end-impunity-grave-human-rights-violations/>.

¹² Law No. 2010/012/ of 21st December 2010 Relating to Cybersecurity and Cybercriminality in Cameroon.

¹³ Penal Code, art. 296: "Whoever by force or moral ascendancy compels any female whether above or below the age of puberty to have sexual intercourse with him shall be punished with imprisonment for from five to ten years."

¹⁴ Human Rights Watch, *Guilty By Association: Human Rights Violations in the Enforcement of Cameroon's Anti-Homosexuality Law* (2013), available online at <https://www.hrw.org/report/2013/03/21/guilty-association/human-rights-violations-enforcement-cameroons-anti>.

¹⁵ *Id.*

¹⁶ Press Releases, on file with Alternatives-Cameroun.

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- ¹⁷ Alternatives-Cameroun, Resultat Preliminaire, etude communautaire, April 2017, on file with Alternatives-Cameroun.
- ¹⁸ *Id.*
- ¹⁹ Press Releases, on file with Alternatives-Cameroun.
- ²⁰ *Id.*
- ²¹ *Id.*
- ²² *Id.*
- ²³ *Id.*
- ²⁴ Amnesty International, *Living for love, dying because of hate: the rising tide of homophobia in Africa*, January 16, 2014, <https://www.amnesty.org/en/latest/campaigns/2014/01/living-for-love-dying-because-of-hate-the-rising-tide-of-homophobia-in-africa/>
- ²⁵ *Id.*
- ²⁶ *Id.*
- ²⁷ Alternatives Cameroun, email communication, 5 October 2017, on file with The Advocates for Human Rights.
- ²⁸ Human Rights Watch, *Guilty By Association: Human Rights Violations in the Enforcement of Cameroon's Anti-Homosexuality Law* (2013), available online at <https://www.hrw.org/report/2013/03/21/guilty-association/human-rights-violations-enforcement-cameroons-anti>.
- ²⁹ Human Rights Watch, *Guilty By Association: Human Rights Violations in the Enforcement of Cameroon's Anti-Homosexuality Law* (2013), available online at <https://www.hrw.org/report/2013/03/21/guilty-association/human-rights-violations-enforcement-cameroons-anti>.
- ³⁰ Human Rights Watch, *Guilty By Association: Human Rights Violations in the Enforcement of Cameroon's Anti-Homosexuality Law* (2013), available online at <https://www.hrw.org/report/2013/03/21/guilty-association/human-rights-violations-enforcement-cameroons-anti>.
- ³¹ Human Rights Watch, *Guilty By Association: Human Rights Violations in the Enforcement of Cameroon's Anti-Homosexuality Law* (2013), available online at <https://www.hrw.org/report/2013/03/21/guilty-association/human-rights-violations-enforcement-cameroons-anti>.
- ³² Alternatives Cameroun, email communication, 5 October 2017, on file with The Advocates for Human Rights.
- ³³ Alternatives Cameroun, email communication, 5 October 2017, on file with The Advocates for Human Rights.
- ³⁴ Amnesty International, *Making Love A Crime: Criminalization of Same-sex Conduct in Sub-Saharan Africa*, pp. 36-37 (June 25, 2013).
- ³⁵ *Id.* at 62-63.
- ³⁶ Alternatives-Cameroun and Humanity First, Statistics on violence and violations based on sexual orientation and gender identity in Cameroon (2012-2017), on file with Alternatives-Cameroun.
- ³⁷ *Id.*
- ³⁸ *Id.*
- ³⁹ *Id.*
- ⁴⁰ Alternatives-Cameroun, *Le Cri Du Silence!, Rapport alternatif au Comité des Droits de l'enfant de l'ONU* (April 2017).
- ⁴¹ Global Aids Response Progress Reporting 2014: Construction of Core Indicators for Monitoring the 2011 United Nations Political Declaration on HIV and AIDS, UNAIDS (English original, January 2014).
- ⁴² *Supra* note 27, pg. 58-59.
- ⁴³ Erasing 76 Crimes, *Aids in Togo and Cameroon: Empty Promises Kill*, July 9, 2014, <https://76crimes.com/2014/07/09/togo-and-cameroon-empty-promises-kill/>
- ⁴⁴ *Supra* note 27, pg. 59.
- ⁴⁵ Alternatives-Cameroun, Resultat Preliminaire, etude communautaire, April 2017, on file with Alternatives-Cameroun.
- ⁴⁶ *Id.*
- ⁴⁷ Erasing 76 Crimes, *Trans woman attacked again in Cameroon*, January 20, 2015, <http://76crimes.com/2015/01/20/trans-woman-attacked-again-in-cameroon/>
- ⁴⁸ March 15, 2017 Press Release, on file with Alternatives-Cameroun.
- ⁴⁹ Alternatives-Cameroun, Resultat Preliminaire, etude communautaire, April 2017, on file with Alternatives-Cameroun.
- ⁵⁰ Data on file with Alternatives-Cameroun.
- ⁵¹ African Commission on Human and Peoples' Rights, 275: *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, Apr. 28–May 12, 2014, available at <http://www.achpr.org/sessions/55th/resolutions/275/> (“3. 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; and 4. Strongly urges States to end all acts of violence and abuse, whether committed by State or non-state actors, including by enacting and effectively applying appropriate laws prohibiting and punishing all forms of violence including those targeting persons on the basis of their imputed or real sexual orientation or gender identities, ensuring proper investigation and diligent prosecution of perpetrators, and establishing judicial procedures responsive to the needs of victims.”).