

PETITION TO:

UNITED NATIONS
WORKING GROUP ON ARBITRARY DETENTION

Chairperson-Rapporteur: Mr. El Hadji Malick Sow (Senegal)

Vice-Chairperson: Ms. Shaheen Sardar Ali (Pakistan)

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HUMAN RIGHTS COUNCIL
UNITED NATIONS GENERAL ASSEMBLY

In the Matter of

PIERRE ROGER LAMBO SANDJO (“LAPIRO DE MBANGA”),

Citizen of the Republic of Cameroon

v.

Government of the Republic of Cameroon

URGENT ACTION REQUESTED

Petition for Relief Pursuant to Resolutions 1997/50, 2000/36, 2003/31, and 6/4¹

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¹ Resolutions 1997/50, 2000/36, and 2003/31 were adopted by the UN Commission on Human Rights extending the mandate of the Working Group on Arbitrary Detention. Resolution 6/4, also extending the mandate of the Working Group on Arbitrary Detention, was adopted by the Human Rights Council which, in accordance with UN General Assembly Resolution 60/251, has “assume[d] . . . all mandates, mechanisms, functions and responsibilities of the Commission on Human Rights . . .” G.A. Res. 60/251, ¶ 6 (Mar. 15, 2006).

BASIS FOR “URGENT ACTION” REQUEST

As set forth in the attached Petition, the Government of Cameroon is arbitrarily depriving Pierre Roger Lambo Sandjo, also known as Lapiro de Mbanga (“Lapiro”), of his liberty, and the conditions of his imprisonment are seriously endangering his life and health. We request that Lapiro’s case be considered under the Urgent Action procedure. Further, we ask that communications be made immediately to the Government of Cameroon to ensure that Lapiro receives adequate food, clean water, and medical treatment. Lapiro has been detained since his arrest on April 9, 2008, in three different detention centers: Mbanga City Central Prison, Nkongsamba Prison, and New Bell Prison.

Lapiro has been detained at New Bell Prison since January 2009, when he was convicted of aiding and abetting crimes that allegedly took place during widespread demonstrations against the Government. (In reality, the Government aimed to punish him for writing and performing protest music that criticized the Government and for affiliating with the opposition party.) New Bell Prison, where he has been incarcerated for a year and a half, is infamous for its unduly harsh and inhumane conditions. New Bell was recently described as “hell on earth”² by visitors to the prison. Prisoners at New Bell are often beaten and chained.³ The number of inmates far exceeds maximum capacity – built for 700, it now holds some 4,000 prisoners.⁴ There is no segregation of ill and healthy prisoners and no medical care.⁵ The acute shortage of water and toilets, as well as the poor sanitation, results in poor hygiene, illness, and sometimes death.⁶ New Bell Prison does not provide adequate food or medical assistance for its inmates; as a consequence, prisoners’ families, many of whom have lost their principal wage earner, are expected to provide food and medicine for their relatives in prison.⁷ In these conditions at New Bell, Lapiro’s health has seriously deteriorated and continues to worsen. He suffers from typhoid, which he contracted in New Bell Prison, debilitating back pain, and chronic respiratory infections, which continue to become more and more severe. Lapiro has been dangerously ill and does not receive adequate health care at the prison. Time is of the essence for Lapiro, who continues to suffer both mentally and physically under these intolerable conditions.

For the foregoing reasons, the Petitioner hereby requests that the Working Group consider this Petition pursuant to the Working Group’s “Urgent Action” procedure.⁸ Furthermore, the Petitioner requests that this Petition be considered a

² Agence France-Press, “Cameroon prison ‘hell on earth,’” (Aug. 9, 2008), *available at* http://www.news24.com/Content/Africa/News/965/22e5be836eda48a7973f443a1b339713/09-08-2008-05-18/Cameroon_prison_hell_on_earth.

³ See U.S. Department of State, 2009 Human Rights Report: Cameroon, *available at* <http://www.state.gov/g/drl/rls/hrrpt/2009/af/135942.htm>.

⁴ Amnesty International, “Cameroon: Impunity Underpins Persistent Abuse” (Jan 2009), *available at* <http://www.amnesty.org/en/library/info/AFR17/001/2009/en>.

⁵ Agence France-Press, “Cameroon prison ‘hell on earth,’” (Aug. 9, 2008), *available at* http://www.news24.com/Content/Africa/News/965/22e5be836eda48a7973f443a1b339713/09-08-2008-05-18/Cameroon_prison_hell_on_earth.

⁶ Agence France-Press, “Cameroon prison ‘hell on earth,’” (Aug. 9, 2008), *available at* http://www.news24.com/Content/Africa/News/965/22e5be836eda48a7973f443a1b339713/09-08-2008-05-18/Cameroon_prison_hell_on_earth.

⁷ U.S. Department of State, 2009 Human Rights Report: Cameroon, *available at* <http://www.state.gov/g/drl/rls/hrrpt/2009/af/135942.htm>.

⁸ *Report of the Working Group on Arbitrary Detention*, E/CN.4/1998/44 (Dec. 19, 1997), Annex 1 at ¶¶ 22-24.

formal request for an opinion of the Working Group pursuant to Resolution 1997/50 of the Commission on Human Rights, as reconfirmed by Resolutions 2000/36, 2003/31, and Human Rights Council Resolution 6/4.

MODEL QUESTIONNAIRE

I. IDENTITY

1. **Family name:** Lambo Sandjo (a.k.a. de Mbanga)
2. **First name:** Pierre Roger (a.k.a. Lapiro)
3. **Sex:** Male
4. **Birth date or age (at the time of detention):** 3 November 1957
5. **Nationality/Nationalities:** Cameroonian
6. (a) **Identity document (if any):** Carte Nationale d'Identité (Identity Card)

(b) **Issued by:** Government of the Republic of Cameroon

(c) **On (date):** 9 October 2007

(d) **No.:** 108434377
7. **Profession and/or activity (if believed to be relevant to the arrest/detention):**

Pierre Roger Lambo Sandjo, known popularly as Lapiro de Mbanga (“Lapiro”), is a prominent singer-songwriter, a member of the Cameroonian opposition party (the Social Democratic Front or “SDF”), and – through his music – an outspoken critic of the administration of President Biya. Lapiro is an artist, singer, and peaceful advocate for democracy and human rights who enjoys significant popularity among the people of Cameroon, West Africa, and Europe.

8. Address of usual residence:

Mbanga City
Postal address: Mbanga, P.O. Box 167, Cameroon

II. ARREST

1. **Date of arrest:** April 9, 2008
2. **Place of arrest (as detailed as possible):** Mbanga City, Cameroon.
3. **Forces who carried out the arrest or are believed to have carried it out:**

The Gendarmerie Commander of Mbanga.

4. Did they show a warrant or other decision by a public authority?

Yes. A committal order (*mandat de dépôt*) was shown.

5. Authority who issued the warrant or decision:

Gendarmerie of Mbanga

6. Relevant legislation applied (if known):

Articles 74, 97, 187, 227, 232, 236, and 316 of the Cameroon Code of Criminal Procedure, which relate to aiding and abetting the following criminal activities: looting in a group, destroying public property, arson, obstruction of public thoroughfares, damage to a public or listed property, and unlawful assembly.

III. DETENTION

1. Date of detention: April 9, 2008

2. Duration of detention (if not known, probable duration):

Lapiro has been detained since the date of his arrest on April 9, 2008.

3. Forces holding the detainee under custody:

Government of the Republic of Cameroon

4. Places of detention (indicate any transfer and present place of detention):

From April 2008, Lapiro was detained in the Mbanga Central Prison but was transferred to Nkongsamba Prison for trial in June 2008. Around January 2009, Lapiro was relocated to and remains at the New Bell Prison in Douala, Cameroon. This facility is notorious for its harsh conditions and brutal and inhumane treatment of its inmates.⁹ Lapiro's health has dangerously deteriorated since his arrival at New Bell, and he suffers from typhoid, debilitating back pain, and chronic respiratory infections.

5. Authorities that ordered the detention:

On April 9, 2008, Lapiro was arrested by the Gendarmerie of Mbanga, acting upon instructions from the Governor of the Littoral Province of Cameroon. On September 24, 2008, the Regional Court of Mounjo convicted Lapiro of aiding and abetting: unlawful assembly, obstruction of public thoroughfares, and looting in a group. As President Biya controls the police, the provincial governor, and the courts,¹⁰ it is most

⁹ See U.S. Department of State, 2009 Human Rights Report: Cameroon, *available at* <http://www.state.gov/g/drl/rls/hrrpt/2009/af/135942.htm>; Agence France-Press, "Cameroon prison 'hell on earth,'" (Aug. 9, 2008), *available at* http://www.news24.com/Content/Africa/News/965/22e5be836eda48a7973f443a1b339713/09-08-2008-05-18/Cameroon_prison_hell_on_earth.

¹⁰ See U.S. Department of State, 2009 Human Rights Report: Cameroon, *available at* <http://www.state.gov/g/drl/rls/hrrpt/2009/af/135942.htm>.

likely that the Government ordered Lapiro's arrest and detention, and played a role in his wrongful conviction.

6. Reasons for the detention imputed by the authorities:

On September 24, 2008, the Regional Court of Moungo convicted Lapiro of aiding and abetting unlawful assembly, obstruction of public thoroughfares, and looting in a group. The court sentenced him to three years imprisonment and ordered him to pay a fine of XAF 280 million.¹¹ On June 24, 2009, the Littoral Court of Appeals upheld the conviction and the three-year sentence and, in violation of its authority, ordered Lapiro to pay additional costs of XAF 540,693.¹²

7. Relevant legislation applied (if known):

Articles 74, 97, 187, 227, 230, 232, 236, and 316 of the Cameroon Code of Criminal Procedure.

IV. DESCRIBE THE CIRCUMSTANCES OF THE ARREST AND/OR THE DETENTION AND INDICATE PRECISE REASONS WHY YOU CONSIDER THE ARREST OR DETENTION TO BE ARBITRARY

The Statement of Facts presented in Part A of this section details the circumstances leading to the arrest and detention of Lapiro. The analysis set forth in Part B of this section explains how Lapiro's arrest, detention, and conviction constitute an arbitrary deprivation of liberty.

A. Statement of Facts

1. Cameroon: Political Background

1. The Republic of Cameroon purports to be a republic, but is actually an autocracy dominated by the president.¹³ Cameroon's president, President Paul Biya, ascended to the presidency in November 1982.¹⁴ President Biya went on to win single-candidate elections in 1984 and 1988 and apparently flawed multi-candidate elections in 1992, 1997, and 2004.¹⁵ The Cameroonian Constitution gives the president broad powers.¹⁶ President Biya can alone name and dismiss cabinet members, judges, generals, regional governors, and heads of Cameroon's state-controlled enterprises, obligate or disburse expenditures, approve or veto regulations, declare states of emergency, and appropriate and spend profits of government-owned or government-controlled firms.¹⁷

2. The judiciary and legislative branches are not independent branches of government, but are subject to the express control of the executive branch. The

¹¹ As at 20 April 2010, 573,927.893 USD.

¹² As at 20 April 2010, 1,108.28 USD.

¹³ U.S. State Dept. Background Note – Cameroon, *available at* <http://www.state.gov/r/pa/ei/bgn/26431.htm>.

¹⁴ U.S. State Dept. Background Note – Cameroon, *available at* <http://www.state.gov/r/pa/ei/bgn/26431.htm>.

¹⁵ U.S. State Dept. Background Note – Cameroon, *available at* <http://www.state.gov/r/pa/ei/bgn/26431.htm>.

¹⁶ Constitution of the Republic of Cameroon, at arts. 5, 6, 8, 9, 10.

¹⁷ See U.S. State Dept. Background Note – Cameroon, *available at* <http://www.state.gov/r/pa/ei/bgn/26431.htm>.

judiciary is subordinate to and reports to the executive branch's Ministry of Justice.¹⁸ The Supreme Court may review the constitutionality of a law only at President Biya's request.¹⁹ Cameroon's judiciary is an instrument of President Biya's administration. It is widely perceived as corrupt and inappropriately influenced by the executive.²⁰ Laws are adopted by a majority vote of members present, and President Biya's Cameroon People's Democratic Movement ("CPDM") party maintains a supermajority in the legislature – 153 deputies out of a total of 180.²¹

3. President Biya has amended the Cameroonian Constitution repeatedly to consolidate and preserve his power. In December 2007, President Biya announced his intention to amend the constitution again, this time to remove presidential term limits,²² and to extend presidential immunity beyond the end of presidential functions.²³ Immediately there was serious public opposition to this amendment, which was seen as anti-democratic and dictatorial.²⁴ In April 2008, the National Assembly acceded to the president's wishes and approved constitutional changes that removed presidential term limits and provided the president with immunity from prosecution for acts committed while in office.²⁵

4. Prior to the approval of this amendment, in February 2008, anti-government riots paralyzed the country, as popular anger erupted over high fuel and food prices and President Biya's plan to indefinitely extend his 25-year rule.²⁶ Large groups of demonstrators protested in the streets of Douala, Yaoundé, Bamenda, and other major cities throughout Cameroon. In some locations, demonstrations involved looting and vandalizing property. Government figures place damage to property at XAF 10 billion (\$23.4 million).²⁷ The Government blamed the SDF and its leaders for allegedly organizing and instigating the rioters.²⁸ The Government sent troops and police to crack down on the unrest.²⁹ The Government reported that 40 people were

¹⁸ U.S. State Dept. Background Note – Cameroon, *available at* <http://www.state.gov/r/pa/ei/bgn/26431.htm>.

¹⁹ U.S. State Dep't. Background Note – Cameroon, *available at* <http://www.state.gov/r/pa/ei/bgn/26431.htm>.

²⁰ Office of the U.S. Trade Representative, 2008 Comprehensive Report on U.S. Trade and Investment Policy Toward Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act 86, *available at* http://www.ustr.gov/sites/default/files/asset_upload_file203_14905.pdf.

²¹ Office of the U.S. Trade Representative, 2008 Comprehensive Report on U.S. Trade and Investment Policy Toward Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act 86, *available at* http://www.ustr.gov/sites/default/files/asset_upload_file203_14905.pdf.

²² *Anger at Cameroon Third Term Hint*, BBC, Jan. 2, 2008, *available at* <http://news.bbc.co.uk/2/hi/africa/7168103.stm>.

²³ *See* Bill to Amend and Supplement Some Provisions of Law No. 96/6 of 18 January 1996 to Amend the Constitution of 2 June 1972 at Article 53(3) which reads that “[a]cts committed by the President of the Republic in pursuance of Articles 5, 8, 9 and 10 above shall be covered by immunity and he shall not be accountable for them after the exercise of his functions.”

²⁴ *Cameroon makes way for a King*, BBC NEWS, April 11, 2008, *available at* <http://news.bbc.co.uk/2/hi/africa/7341358.stm>.

²⁵ *Anger at Cameroon Third Term Hint*, BBC, Jan. 2, 2008, *available at* <http://news.bbc.co.uk/2/hi/africa/7168103.stm>; *Cameroon makes way for a King*, BBC NEWS, April 11, 2008, *available at* <http://news.bbc.co.uk/2/hi/africa/7341358.stm>.

²⁶ *Economic and Political Anger Sets Off Rioting in Cameroon*, N.Y. Times, Feb. 28, 2008, *available at* <http://www.nytimes.com/2008/02/28/world/africa/28cameroon.html>.

²⁷ *Cameroon government raises violence death toll to 40*, AGENCE FREE PRESSE, March 10, 2008, *available at* <http://afp.google.com/article/ALeqM5jJqZqCOMhiBm7XKvnTzefuzqvNMQ>; *see also* *Cameroon protest set for Friday at DC Embassy*, THE MOUNT AIRY NEWS, March 17, 2008, *available at* http://www.africanews.com/download.php/download_document/15381/3dc25451ab8c98939734e28c2765782f.

²⁸ *Cameroon head blames opposition*, BBC NEWS, February, 28, 2008, *available at* <http://news.bbc.co.uk/2/hi/africa/7267731.stm>.

²⁹ *Cameroon activists say riots kill more than 100*, REUTERS, March 5, 2008, *available at*

killed in the demonstrations, but some human rights groups claim that total deaths exceeded 100.³⁰ The Ministry of Justice claimed to have arrested 1,671 persons during this uprising, but NGOs reported even higher numbers.³¹ A Cameroonian lawyer reported that security forces stripped, beat, and dumped detainees into ashes from burned tires and broken glass, while arresting them.³²

5. In May 2008, President Biya granted amnesty to hundreds of persons convicted in connection with their participation in the February 2008 demonstrations, as well as individuals detained for other offenses.³³ The perpetrators of the criminal acts that Lapiro was accused of aiding and abetting - looting in a group, obstructing public thoroughfares, and unlawful assembly on public thoroughfares - were among the individuals who received presidential amnesty.³⁴ Although the alleged organizers and perpetrators of these acts had already been granted amnesty and released in May 2008, Lapiro was tried and sentenced in September 2008 for aiding and abetting their allegedly criminal acts. Lapiro had not yet been tried or sentenced at the time of the first presidential amnesty, so he was not eligible for pardon at that time. Later, the Commission Indépendante Contre la Corruption et la Discrimination applied for a presidential pardon in Lapiro's name. A presidential pardon, if granted, typically would not result in the reversal of a conviction or a dismissal or disavowal of the claims or allegations underlying it. Lapiro has always asserted his innocence and continues to do so.

2. Freedom of Expression and Association in Cameroon

6. The Cameroonian Constitution provides for certain "inalienable and sacred rights," including "the freedom of communication, of expression, of the press, of assembly, [and] of association."³⁵ However, in practice, the Government regularly restricts these rights and interferes with private broadcast, print, and radio media.³⁶ Furthermore, the Government regularly denies equal treatment to individuals or organizations that criticize government policies or express views at odds with government policy.³⁷ It is also known to harass and detain journalists, activists, and artists who speak critically about the Government.³⁸ This political repression has

<http://www.reuters.com/article/worldNews/idUSL0521512320080305?pageNumber=1&virtualBrandChannel=0>.

³⁰ *Cameroon activists say riots kill more than 100*, REUTERS, March 5, 2008, available at <http://www.reuters.com/article/worldNews/idUSL0521512320080305?pageNumber=1&virtualBrandChannel=0>.

³¹ U.S. Department of State, 2009 Human Rights Report: Cameroon, available at <http://www.state.gov/g/drl/rls/hrrpt/2009/af/135942.htm>.

³² U.S. Department of State, 2009 Human Rights Report: Cameroon, available at <http://www.state.gov/g/drl/rls/hrrpt/2009/af/135942.htm>.

³³ U.S. Department of State, 2009 Human Rights Report: Cameroon, available at <http://www.state.gov/g/drl/rls/hrrpt/2009/af/135942.htm>.

³⁴ U.S. Department of State, 2009 Human Rights Report: Cameroon, available at <http://www.state.gov/g/drl/rls/hrrpt/2009/af/135942.htm>.

³⁵ Cameroon Constitution, Preamble, available at <http://confinder.richmond.edu/admin/docs/Cameroon.pdf>. The Cameroon Constitution unambiguously provides that "the freedom of communication, of expression, of the press, of assembly, of association, and of trade unionism, as well as the right to strike shall be guaranteed under the conditions fixed by law."

³⁶ U.S. Department of State, 2009 Human Rights Report: Cameroon, available at <http://www.state.gov/g/drl/rls/hrrpt/2009/af/135942.htm>.

³⁷ U.S. Department of State, 2009 Human Rights Report: Cameroon, available at <http://www.state.gov/g/drl/rls/hrrpt/2009/af/135942.htm>.

³⁸ A song entitled "50 years in power" by popular Cameroon singer Longuè Longuè was reportedly banned by the government, and the journalist who played the song, Billy Karson, was suspended and banned from the air. (*Cameroon: Fru Ndi's Ideas On Constitutional Amendment Banned On CRTV*,

accelerated since the February 2008 demonstrations, which were “widely used as a pretext to launch unfair criminal proceedings and suppress the opposition and civil society.”³⁹

7. The Government has consistently suppressed and harassed political opposition parties, such as the SDF, by violently blocking opposition demonstrations and meetings, and targeting opposition leaders with arbitrary arrests and imprisonment.⁴⁰ Natives of the North West and South West regions, who tend to support the SDF party, suffered disproportionately from human rights abuses committed by the Government and its security forces.⁴¹

3. Background Information on Lapiro

8. Lapiro is a popular singer-songwriter known for his creative and satirical lyrics, which criticize corrupt politicians and address social and economic injustice in Cameroon.⁴² Lapiro’s earliest success came in 1986 with his album *No Make Erreur*.⁴³ Through his music, Lapiro reaches a broad audience in all socio-economic layers of Cameroonian society. His music is especially appealing to those in the lower socio-economic classes who bear the brunt of Cameroon’s political and social corruption, e.g., the working class, the unemployed, urban youths, and other underprivileged members of society.⁴⁴

9. Lapiro is also a tribal leader within the city of Mbanga. He takes his position seriously and seeks to ensure that the conditions of the people in his community are

ALLAFRICA.COM, February 22, 2008, available at <http://allafrica.com/stories/200802221192.html>); Painter, musician, and political activist Joe De Vinci Kameni (“Joe La Conscience”) was arrested in February 2008 and sentenced to six months in prison after he composed a song and wrote a petition against Biya’s proposed constitutional amendments. He was charged with organizing illegal meetings and demonstrations. (*Imprisoned for singing ‘Constipated Constitution’*, FREEMUSE: FREEDOM OF MUSICAL EXPRESSION, April 24, 2008, available at <http://www.freemuse.org/sw26753.asp>); On February 27, 2008, Eric Golf Kouatchou, a cameraman at the Canal 2 International television station, was arrested on his way to report on protests taking place in Bonanjo, near Douala. His equipment was confiscated, and he and 36 other men were detained and beaten before being released. (*Imprisoned for singing ‘Constipated Constitution’*, FREEMUSE: FREEDOM OF MUSICAL EXPRESSION, April 24, 2008, available at <http://www.freemuse.org/sw26753.asp>); In September 2008, Michel Mombio, editor of the independent newspaper *L’Ouest Republican*, was arrested in Bafoussam and charged with fraud, attempted blackmail, and libel after he wrote an article criticizing cabinet officials. (U.S. Department of State, 2009 Human Rights Report: Cameroon, available at <http://www.state.gov/g/drl/rls/hrrpt/2009/af/135942.htm>.); In December 1997, journalist Pius Njawé, publisher and editor-in-chief of *Le Messager* newspaper, was arrested and charged with having published false information after printing an article raising questions about President Biya’s health. The UN Working Group on Arbitrary Detention rendered an opinion on this matter on June 10, 1998 and judged Njawé’s detention to be arbitrary and contrary to the provisions of articles 9 and 19 of the Universal Declaration of Human Rights and articles 9 and 19 of the International Covenant on Civil and Political Rights.

³⁹ UNHCR, Refworld, Observatory for the Protection of Human Rights Defenders Annual Report 2009-Cameroon, available at <http://www.unhcr.org/refworld/country..IFHR..CMR..4a5f3008c.0.html>.

⁴⁰ Amnesty International, Amnesty International Report 2009 -Cameroon, available at <http://www.unhcr.org/refworld/country,...CMR,456d621e2,4a1fadf90,0.html>.

⁴¹ U.S. Department of State, 2009 Human Rights Report: Cameroon, available at <http://www.state.gov/g/drl/rls/hrrpt/2009/af/135942.htm>.

⁴² “Cameroon dances to anti-graft beat,” BBC NEWS, December 7, 2007, available at <http://news.bbc.co.uk/2/hi/africa/7131637.stm>.

⁴³ Yahoo! Music – Lapiro de Mbanga Biography, available at <http://new.music.yahoo.com/lapiro-de-mbanga-291560/biography/>.

⁴⁴ *Frank Bessem’s Musiques d’Afrique*, available at http://www.geocities.com/fbessem/frames/art_lapiro.html.

improved and that their opinions are heard and considered. He is highly respected within this community and has been treated as a voice of reason.⁴⁵

10. Lapiro voices his opposition peacefully, *e.g.*, by writing and singing songs of protest, and has never participated in or condoned violent acts of protest. To the contrary, he encourages his community and his followers to show restraint and to exercise their constitutional rights peacefully. In 1991, during a period of political tumult and violence, Lapiro publicly urged protestors to engage in peaceful demonstrations rather than resorting to violent acts and rioting.⁴⁶ Lapiro's actions and public comments created uproar among his fans, who felt he was siding with President Biya's administration, but that did not stop Lapiro from urging restraint.⁴⁷ In 1993, Lapiro released an album, *Ndinga Man Contre-Attaque* ("The Guitar Man Strikes Back"), through which he sought to answer his critics and clear his name – not by advocating violence, but by declaring his opposition to the Government and its policies.⁴⁸ Since releasing that album in 1993, Lapiro has increasingly been affiliated with the opposition movement and has become known as a strong supporter of the SDF.⁴⁹ He has been a prominent member of the SDF since 2007, when he ran as an SDF candidate in a local election but lost to the Government-backed candidate. He does not currently hold any leadership position within the SDF, but continues to support it.

11. In recognition of his talent and political plight, Lapiro has been awarded several prestigious international prizes for his music while in detention. International prizes awarded to Lapiro include the Canal D'Or on April 9, 2010,⁵⁰ and the "Freedom to Create" Imprisoned Artist Prize on November 25, 2009.⁵¹ There is strong and consistent support for Lapiro both domestically and internationally.

4. Lapiro's Arrest and Detention⁵²

12. In the face of the proposed constitutional amendments and worsening economic turmoil, protestors engaged in demonstrations and strikes that besieged thirty-one towns in late February 2008.⁵³ On the morning of February 25, Lapiro was at his home in Mbanga City, when the riots began. Lapiro left his home to buy gasoline and, while he was out, was stopped by local authorities who asked him to intervene to stop the rioters in Mbanga City. Lapiro diplomatically intervened – just as he had done previously in 1991.

⁴⁵ 'Lapiro de Mbanga and Political Vision in Contemporary Cameroon', Enongene Mirabeau Sone, The International Journal of Language, Society and Culture, Issue 27, 2009.

⁴⁶ Cameroon Institutional Situation, available at <http://www.etat.sciencespobordeaux.fr/anglais/institutionnel/cameroon.html>.

⁴⁷ Yahoo! Music – Lapiro de Mbanga Biography, available at <http://new.music.yahoo.com/lapiro-de-mbanga-291560/biography/>.

⁴⁸ *Imprisoned for singing 'Constipated Constitution'*, FREEMUSE: FREEDOM OF MUSICAL EXPRESSION, April 24, 2008, available at <http://www.freemuse.org/sw26753.asp>.

⁴⁹ See SDF Party Website, available at <http://www.sdfparty.org/english/history/128.php>.

⁵⁰ George E. Fominyen, *Lapiro Honoured at Cameroon Music Awards*, STANDARD TRIBUNE, April 12, 2010, available at <http://www.standardtribune.com/entertainment/46-music/344-lapiro-honoured-at-cameroon-music-awards.html>.

⁵¹ *Lapiro Mbanga wins global award*, FREEMUSE: FREEDOM OF MUSICAL EXPRESSION, November 25, 2009, available at <http://www.freemuse.org/sw35866.asp>.

⁵² Background facts on Lapiro's arrest and detention were prepared through consultation with Lapiro's local counsel in Cameroon and a review of the filings and other documents relevant to his criminal case.

⁵³ *Cameroon government raises violence death toll to 40*, AGENCE FREE PRESSE, March 10, 2008, available at <http://afp.google.com/article/ALeqM5JqZqCOMhiBm7XKvnTzefuzqvNMQ>.

13. Lapiro then returned home, where he received a telephone call from Mr. Makembe, corporate counsel to Société Plantation de Bananeraie Mbanga (“SPM”), one of the properties being targeted by the rioters. Mr. Makembe informed Lapiro that rioters were about to loot and vandalize SPM’s plantations, and he asked Lapiro once again to intervene and use his influence to calm the rioters and stop the riots. Lapiro agreed to Mr. Makembe’s request and took a motorcycle taxi to the plantations, where he urged the rioters to stop. The Mbanga City authorities, including the mayor and the commanding officer of the rapid deployment squad, later joined Lapiro in his efforts.

14. Later the same day, Mr. Makembe called Lapiro again and asked him to negotiate with the rioters on SPM’s behalf. Subsequently, Lapiro convened a meeting at his home with the union leaders on the evening of February 25. The rioters agreed not to burn down the plantations after Lapiro informed them that SPM would provide all their union members with fuel for their taxis. That same evening, the Mbanga City deputy police commissioner called Lapiro to congratulate and thank him for his assistance in stopping the riots and vandalism that day. They agreed to meet at the deputy police commissioner’s office the next day.

15. On February 26, Lapiro went to the deputy police commissioner’s office, as requested. The deputy police commissioner then sent him to the local high school to intervene yet again to stop the rioting. This time, however, the rioters had already damaged the local high school buildings. Lapiro was then called to SPM’s head office. Again, Lapiro arrived too late, as the burning and looting were already underway. Lapiro used a video camera to record the rioters, so that the wrongdoers could be identified later. Some rioters from the neighboring village of Muyuka seized the video camera and destroyed it. They kidnapped Lapiro and brought him to Muyuka, where he suffered threats and physical abuse before he was released and returned to Mbanga City later that day. On February 27, Lapiro did not leave his home, where he was recovering from the previous day’s events.

16. Lapiro’s protest song, “Constitution Constipée,”⁵⁴ had been released in December 2007 shortly after President Biya announced his planned constitutional amendments.⁵⁵ While the discussions on the amendments to the Cameroonian Constitution were occurring in Parliament, President Biya banned the song. Notwithstanding the Government ban, the song grew in popularity in the early part of 2008, as it reflected the sentiments of much of the population of Cameroon. On April 9, 2008, Lapiro was arrested in Mbanga City.

5. Lapiro’s First Instance Trial and Court Appeals

17. During Lapiro’s trial, the Government alleged that Lapiro used his influence as a popular musician to incite people to carry out criminal acts.⁵⁶ The allegations were particularly ironic, unfounded, and offensive in light of Lapiro’s repeated efforts to stop the rioters, in some cases at the behest of government officials. On September 24, 2008, the Regional Court of Moungo convicted Lapiro of aiding and abetting acts of looting in a group, obstruction of public thoroughfares, and unlawful assembly on

⁵⁴ See Appendix A for lyrics.

⁵⁵ Vigier Guitars, *L’artiste Vigier, Lapiro De Mbanga en Prison*, (25 Novembre 2009) available at http://www.hightechdistribution.com/news-66-0.php?id_news=132#anchor132.

⁵⁶ *Cameroon government raises violence death toll to 40*, AGENCE FREE PRESSE, March 10, 2008, available at <http://afp.google.com/article/ALeqM5JqZqCOMhiBm7XKvnTzefuzqvNMQ>.

public thoroughfares. The court sentenced him to three years imprisonment and ordered him to pay a fine of XAF 280 million (*i.e.*, approx. USD 600,000) for damages caused to SPM and other property.

18. Lapiro quickly appealed his conviction and sentence, on the grounds that:

- a. he was innocent of the crimes alleged and the first instance court deliberately disregarded evidence of his innocence;
- b. the police investigation was conducted improperly, in violation of Cameroonian law;⁵⁷ and
- c. the first instance court committed procedural error in allowing the Mbang divisional tax office to participate in the hearing.

19. On these and other grounds, Lapiro requested that the Court of Appeal set aside the judgment against him. The Court of Appeal refused to set aside the judgment against Lapiro and instead went beyond the scope of the appeal and, in violation of its authority, ordered Lapiro to pay a supplemental XAF 540,693 (*i.e.*, approx. USD 1,100).⁵⁸

20. On December 15, 2009, Lapiro appealed his conviction and sentence to the Supreme Court. Rather than hear his case, the Supreme Court has repeatedly postponed Lapiro's hearing date and failed even to consider Lapiro's procedural appeal.

21. On September 4, 2009, Lapiro petitioned the Supreme Court for provisional release (having, in accordance with Cameroonian law, applied for provisional release at every allowable instance), pending resolution of his appeal. The Supreme Court never responded to this petition or the ones previously lodged. The Supreme Court has ignored Lapiro's repeated inquiries, despite its duty to decide on such a request within a week of receiving it. It has also declined to provide any reasons or justification for its failure to act. As of the date of this filing, Lapiro's request for provisional release has been pending before the Supreme Court for more than 10 months and the Supreme Court has not provided any indication regarding whether and, if so, when it will consider and decide on Lapiro's appeal.⁵⁹ And so, Lapiro remains in New Bell prison, enduring notoriously harsh and inhumane conditions.

⁵⁷ The following articles of the Cameroon Code of Criminal Procedure were breached by the police: Article 90 "the minutes (of the preliminary investigation) should state: (a) the date and time of the start and end of each act of preliminary investigation; (b) the surnames, first names and the capacity of the investigator; (c) where applicable, the authorization set forth at Article 88(2)"; Article 116(3) and (4) "the judicial police officer shall, upon the commencement of the preliminary investigation and risking annulment, inform the accused of: - his right to be assisted by counsel; - his right to remain silent. (4) Reference to this information must be made in the minutes of the preliminary investigation"; Article 117(2) "The accused who has no known place of residence or who cannot provide any of the guarantees of representation set forth by Article 246 must be brought before the public prosecutor if there is serious and consistent evidence"; Article 122 "The accused must be immediately informed of the facts he is accused of. He must be treated physically and morally with humanity"; Article 124 "The judicial police officer shall mention in the minutes the reason for the custody and the breaks between the interrogations, the day and time when he was either released or brought before the prosecutor" (translated from the French original).

⁵⁸ As at 20 April 2010, 1,108.28 USD.

⁵⁹ See Art. 102, Law No. 2006-016 on the organization and functioning of the Supreme Court, dated December 29, 2006.

B. The Charges Against Lapiro are False and Politically Motivated

22. The detention of Lapiro on clearly politically-motivated charges constitutes an arbitrary detention of liberty⁶⁰ falling within Category II and Category III of the classifications of cases as defined by the Working Group.⁶¹ Article 9(1) of the International Covenant on Civil and Political Rights (“ICCPR”), to which Cameroon acceded on June 27, 1984,⁶² Article 9 of the Universal Declaration of Human Rights (“UDHR”),⁶³ and Article 6 of the African Charter on Human and People’s Rights (“ACHPR”) ⁶⁴ specifically prohibit arbitrary detention. Expressing its adherence to international principles, the Cameroonian Constitution “affirm[s] [its] attachment to the fundamental freedoms enshrined in the Universal Declaration of Human Rights, the Charter of the United Nations and the African Charter on Human and Peoples’ Rights, and all duly ratified international conventions.”⁶⁵ Lapiro’s detention is therefore a violation of international human rights law and the domestic laws of Cameroon.

23. This case meets the requirements of Category II because Lapiro’s arrest and detention are the result of his exercise of his fundamental right to freedom of expression embodied in Article 19 of the ICCPR⁶⁶ and Article 19 of the UDHR⁶⁷ and his right to free association embodied in Article 22 of the ICCPR⁶⁸ and Article 20(1)

⁶⁰ An arbitrary deprivation of liberty is defined as any “depriv[ation] of liberty except on such grounds and in accordance with such procedures as are established by law.” International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16), at 52 U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force 23 March 1976, at art. 9(1) [hereinafter ICCPR]. Such a deprivation of liberty is specifically prohibited by international law. *Id.* “No one shall be subjected to arbitrary arrest, detention or exile.” Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810, at art 9 (1948) [hereinafter UDHR]. “Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law...”

⁶¹ A Category II deprivation of liberty occurs, “[w]hen the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20, and 21 of the [UDHR] and, and insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26, and 27 of the [ICCPR].” Office of the High Comm’r for Human Rights, United Nations, Fact Sheet No. 26: The Working Group on Arbitrary Detention, pt. IV(B) [hereinafter Fact Sheet No. 26]. A Category III deprivation of liberty occurs, “[w]hen the total or partial non-observance of the international norms relating to the right to a fair trial, spelled out in the [UDHR] and in the relevant instrumental instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character.” *Id.* Additionally, in making a Category III determination, the Working Group will look to the Principles for the Protection of All Persons under any Form of Detention or Imprisonment, and if the State is a party to the ICCPR, articles 9 and 14 of the ICCPR.

⁶² International Covenant on Civil and Political Rights, Article 9, June 27, 1984, Cameroon, 999 U.N.T.S. 171.

⁶³ Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810, at art 9(1) (1948).

⁶⁴ See African (Banjul) Charter on Human and People’s Rights, Article 6, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force October 21, 1986 (stating “Every individual shall have the right to liberty and the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.”).

⁶⁵ Preamble, Constitution of the Republic of Cameroon.

⁶⁶ Article 19 of the ICCPR provides that “1. Everyone shall have the right to hold opinions without interference. 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.” ICCPR at art. 19(1)-(2).

⁶⁷ Article 19 of the UDHR provides that “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” UDHR at art. 19.

⁶⁸ Article 22 of the ICCPR provides that “1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests. 2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.” ICCPR at art. 22(1)-(2).

of the UDHR.⁶⁹ Further, Lapiro's detention falls under Category II because it is the result of his exercise of his fundamental right to participate in government, as protected by Article 21(1) of the UDHR⁷⁰ and Article 25(a) of the ICCPR.⁷¹

24. This case meets the requirements of Category III because the Government of Cameroon failed to observe the minimum international standards required for a fair trial. When the Government prosecuted Lapiro, it violated basic protections embodied in Article 14 of the ICCPR,⁷² Articles 10 and 11 of the UDHR⁷³ and Principles 36, 38, and 39 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment ("Body of Principles")⁷⁴ by repeatedly failing to observe Cameroonian procedural law and international law. As a consequence, Lapiro was denied a fair trial and his detention is therefore arbitrary.

25. Lapiro has been a long-standing vocal critic of the Government of Cameroon. Through his music and political activities, he provides a voice to those who most need it in the face of Government oppression and corruption – the uneducated and underprivileged. He speaks out against Government corruption and President Biya's consolidation of power and autocratic rule. Even though the Government of Cameroon denies allegations that Lapiro's incarceration is politically motivated, the charges against Lapiro are baseless and without merit. Lapiro's imprisonment is instead government retaliation against his song-writing and singing, his membership

⁶⁹ Article 20(1) of the UDHR provides that "Everyone has the right to freedom of peaceful assembly and association." UDHR at art. 20(1).

⁷⁰ Article 21(1) of the UDHR provides that "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives." UDHR at art. 21(1).

⁷¹ Article 25(a) of the ICCPR provides that "Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives" ICCPR at art. 25(a).

⁷² Article 14 of the ICCPR, in relevant part, provides that "1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law." ICCPR, at art. 14(1).

⁷³ Article 10 of the UDHR provides that "[e]veryone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him." UDHR at art. 10. Article 11 of the UDHR provides that "(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence. (2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed." UDHR at art. 11.

⁷⁴ Principle 36 of the Body of Principles provides that "1. A detained person suspected of or charged with a criminal offence shall be presumed innocent and shall be treated as such until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence. 2. The arrest or detention of such a person pending investigation and trial shall be carried out only for the purposes of the administration of justice on grounds and under conditions and procedures specified by law. The imposition of restrictions upon such a person which are not strictly required for the purpose of the detention or to prevent hindrance to the process of investigation or the administration of justice, or for the maintenance of security and good order in the place of detention shall be forbidden." Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, GA/RES/43/173, at Principle 36 (1988). Principle 38 of the Body of Principles provides that "A person detained on a criminal charge shall be entitled to trial within a reasonable time or to release pending trial." Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, GA/RES/43/173, at Principle 38 (1988). Principle 39 of the Body of Principles provides that "Except in special cases provided for by law, a person detained on a criminal charge shall be entitled, unless a judicial or other authority decides otherwise in the interest of the administration of justice, to release pending trial subject to the conditions that may be imposed in accordance with the law. Such authority shall keep the necessity of detention under review." Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, GA/RES/43/173, at Principle 39 (1988).

in and support for the SDF, and his open criticism of President Biya and the Government.⁷⁵

26. Most notably, his arrest has been linked to the Government's displeasure with his song, "Constitution Constipée,"⁷⁶ which Lapiro released⁷⁷ just months before he was arrested and detained. The song criticized President Biya and his proposed constitutional amendments,⁷⁸ calling on President Biya to step down.⁷⁹ It was immediately banned by the Government.⁸⁰ Nevertheless, the song grew wildly popular, particularly during the demonstrations, which erupted in part to protest the elimination of presidential term limits. Lapiro was arrested and taken into custody at the height of the banned song's popularity. In 2009, the government reportedly considered bringing new charges against Lapiro that it was his song "Constitution Constipée" that led to the destruction of a banana plantation.⁸¹

27. Additionally, Lapiro – who was only convicted of aiding and abetting the riots, as opposed to directly participating in them – received a prison sentence that was twice as long as the penalties meted out to the admitted leaders of the riots, many of whom received only 18-month prison terms and subsequently were released early,⁸² when President Biya granted them a presidential pardon. Because Lapiro had not yet been tried or sentenced at the time of the presidential amnesty, he was not eligible for pardon and release. Thus, the actual organizers received a lighter sentence than Lapiro, and the perpetrators of the crimes were released from prison even before Lapiro was tried and convicted. There can be no reasonable explanation for Lapiro's three-year prison sentence for aiding and abetting crimes when the perpetrators received sentences that were half that period and then pardoned and released early. Moreover, it is suspicious that Lapiro's trial began after the amnesty was announced, making him ineligible for a pardon.

28. In the two years leading up to his arrest, Lapiro did not merely write songs and sing in opposition to President Biya's Government; he also became politically active and officially affiliated with the SDF, whose members are routinely subjected to

⁷⁵ See *Cameroon: Songwriter Sentenced to Three Years in Prison*, ALLAFRICA.COM, October 9, 2008, available at <http://allafrica.com/stories/200810100150.html>; PEN American Center, <http://www.pen.org/viewmedia.php/prmMID/2897/prmID/1689>. See below for an extract from Mbanga's satirical song "Constipated Constitution," which was banned from government TV and radio channels: "Le Chef de l'Etat est pris au piège des réseaux/ qui l'obligent à rester au pouvoir alors qu'il est fatigué.../ Libérez le Big Katika".

Translation: "The head of State is caught in the trap of networks/ that oblige him to stay in power even though he is tired.../ Free Big Katika". (Big Katika is President Paul Biya's nickname).

⁷⁶ *Imprisoned for singing 'Constipated Constitution'*, FREEMUSE: FREEDOM OF MUSICAL EXPRESSION, April 24, 2008, available at <http://www.freemuse.org/sw26753.asp>.

⁷⁷ *Note D'écoute La " Constitution Constipée " De Lapiro De Mbanga*, CAMEROON-ONE, December 14, 2007, available at <http://www.cameroon-one.com/site/news/index.php?op=view&id=32898>.

⁷⁸ *Note D'écoute La " Constitution Constipée " De Lapiro De Mbanga*, CAMEROON-ONE, December 14, 2007, available at <http://www.cameroon-one.com/site/news/index.php?op=view&id=32898>; see also U.S. State Dept. Background Note – Cameroon, available at <http://www.state.gov/r/pa/ei/bgn/26431.htm>.

President Biya's political party, Cameroon People's Democratic Movement, holds an overwhelming majority in the National Assembly.

⁷⁹ *Lapiro de Mbanga – Winner of the 2009 Freedom to Create Imprisoned Artist Prize*, FREEDOM TO CREATE, available at <http://www.freedomtcreate.com/Lapiro-de-Mbanga.asp>.

⁸⁰ See *Lapiro de Mbanga—Winner of the 2009 Freedom to Create Imprisoned Artist Prize*, FREEDOM TO CREATE, available at <http://www.freedomtcreate.com/Lapiro-de-Mbanga.asp>

⁸¹ 'Lapiro de Mbanga faces new trial', available at <http://www.freemuse.org/sw32041.asp>.

⁸² *Lapiro de Mbanga – Winner of the 2009 Freedom to Create Imprisoned Artist Prize*, FREEDOM TO CREATE, available at <http://www.freedomtcreate.com/Lapiro-de-Mbanga.asp>; see also *Singer taken to Court in chains*, FREEMUSE: FREEDOM OF MUSICAL EXPRESSION, July 15, 2008, available at <http://www.freemuse.org/sw29056.asp>.

serious harassment by the Government. This connection became public at least as of 2007, when Lapiro stood as an SDF candidate in local elections in Mbanga City. Anyone affiliated with the Government's chief rivals, the SDF, poses a threat to the Government, but Lapiro poses a particularly serious threat due to the popularity of his music and his status as a celebrity and popular-culture icon.

29. As described in detail below, the Government of Cameroon has fabricated false claims against Lapiro and engineered a conviction so that they could imprison and silence him, and bring an end to his political and social activism. There is no reliable evidentiary basis for Lapiro's conviction. Moreover, the trial court was not independent or impartial, and Lapiro did not receive a fair trial. Lapiro's rights were violated during the investigation. "Evidence" was obtained by deliberate breach of Cameroon's own laws. It is widely believed that witnesses were coerced by the Government to testify, falsely, against Lapiro.

30. In arresting and detaining Lapiro because he sang and spoke critically of the Government and was prominently associated with the chief opposition party, the Government of Cameroon has acted in violation of the fundamental rights and freedoms it purports to support, just to silence a peaceful critic of the Government and its autocratic rule.

1. Lapiro is Arbitrarily Detained by Cameroon as a Result of His Exercise of Fundamental Rights and Freedoms

a) Freedom of Expression

31. Freedom of expression is a fundamental right in Cameroon, according to the Cameroonian Constitution. The Cameroonian Constitution states:

"No person shall be harassed on the grounds of his origin, religious, philosophical or political opinions or beliefs, subject to respect for public policy; ...

The freedom of communication, of expression, of the press, of assembly, of association, and of trade unionism, as well as the right to strike shall be guaranteed under the conditions fixed by law."⁸³

32. This fundamental freedom of expression is enshrined in international treaties, which Cameroon has ratified.

a. Article 19 of the ICCPR provides that:

"1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."⁸⁴

⁸³ Preamble, Constitution of the Republic of Cameroon.

⁸⁴ ICCPR, at art. 19(1)-(2).

b. Article 19 of the UDHR provides that: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”⁸⁵

33. The Government of Cameroon regularly curtails its citizens’ right to freedom of expression, *e.g.*, by harassing independent newspapers and by arresting political activists and journalists and others who publicly speak out against the Government. The Government does not tolerate criticism from those who seek to give voice to public sentiment and regularly uses the police and the judiciary in attempts to silence its critics.

34. At the time of his arrest, Lapiro was an influential member of the opposition party, a vocal critic of the Government, and a popular singer-songwriter. From all platforms, Lapiro used his voice to speak out against injustice, Government corruption, and the President’s stranglehold on power; of which the Government took notice. He spoke out against corrupt government ministers and directors of state companies whom he has repeatedly accused of siphoning public funds from the state treasury, calling for their conviction and incarceration.⁸⁶ When it suited President Biya’s political interests, several of these Government ministers and company directors were found guilty of the theft of public funds.

35. Most famously, Lapiro sang out against President Biya’s successful attempt to remove term limits when he released the song “Constitution Constipée,” in December 2007. As described above, this song was banned and resulted in Lapiro’s arrest. Moreover, the timing of Lapiro’s arrest (which corresponded to the peak popularity of a protest song, just months after it was released) and the length of his sentence (which was twice that of the accused organizers of the riots) reveal the political motivations behind Lapiro’s arrest and conviction.

36. It is evident that by arresting and detaining Lapiro, the Government has retaliated against his political opposition and outspoken criticism of the Government. By incarcerating Lapiro unfairly and in violation of domestic and international laws, the Government of Cameroon seeks to silence Lapiro and send a broader message of intimidation and intolerance to his fellow political party members and others who would seek to oppose or publicly criticize the Government.

2. Freedom of Association

37. The Cameroonian Constitution embraces the right to freedom of association as one of Cameroon’s fundamental freedoms, stating:

“[N]o person shall be harassed on grounds of his origin, religious, philosophical or political opinions or beliefs, subject to respect for public policy...the freedom of communication, of expression, of the press, of assembly, of association and of trade unionism, as well as the right to strike shall be guaranteed under the conditions fixed by law.”⁸⁷

⁸⁵ UDHR, at art. 19.

⁸⁶ “VIP prisoners,” BBC WORLD SERVICE, May 19, 2009, *available at* http://www.bbc.co.uk/worldservice/africa/2009/05/090519_cameroon_prison.shtml.

⁸⁷ Preamble, Constitution of the Republic of Cameroon.

38. The right to association is protected under international law.
- a. Article 22(1) of the ICCPR provides:
- “Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.”⁸⁸
- b. Article 20(1) of the UDHR provides:
- “Everyone has the right to freedom of peaceful assembly and association.”⁸⁹
39. Lapiro’s arrest and detention violated his right of free association under both Cameroon law and international law. Lapiro was arrested and detained not only because of the content of his songs, but also because of his association with the opposition party, the SDF. Lapiro has been affiliated with the political opposition for many years, but he became much more publicly active in 2007, when he announced his intention to seek public office in Mbanga City as an opposition candidate with the SDF.
40. The SDF and its members have long suffered under President Biya. Despite domestic and international protections, the Government has consistently suppressed, harassed, and intimidated the political opposition by violently blocking opposition demonstrations and meetings, and targeting opposition leaders with arbitrary arrests and imprisonment.⁹⁰ This political repression has accelerated since the February 2008 demonstrations, which were “used as a pretext to launch unfair criminal proceedings and suppress the opposition and civil society.”⁹¹
41. Lapiro’s party, the SDF, is widely outspoken against the Government. The SDF strongly opposed the amendment to the Cameroonian Constitution doing away with term limits for the President.⁹² With President Biya’s ruling CPDM party holding a dominant majority in the legislature, SDF officials knew that the amendment’s passing was a foregone conclusion.⁹³ Nonetheless, in a public act of protest, the SDF’s deputies boycotted the April 2008 vote in which the amendment was approved.⁹⁴ Despite the SDF’s opposition to the amendment, public discussion of the changes to the Constitution were limited leading up to the vote. According to the SDF, the Government prohibited dissemination of news of the amendment in the national press.⁹⁵
42. The Government’s arrest and imprisonment of Lapiro is part of a larger Government campaign to silence and inhibit political opposition to the Biya

⁸⁸ ICCPR, at art. 22(1).

⁸⁹ UDHR, at art. 20(1).

⁹⁰ Amnesty International, *Amnesty International Report 2009 - Cameroon*, available at <http://www.unhcr.org/refworld/country,...CMR,456d621e2.4a1fadf90.0.html>.

⁹¹ UNHCR, *Refworld, Observatory for the Protection of Human Rights Defenders Annual Report 2009-Cameroon*, available at <http://www.unhcr.org/refworld/country,..IFHR,..CMR,..4a5f3008c.0.html>.

⁹² *Cameroon assembly clears way for Biya third term*, Reuters, April 10, 2008, available at <http://www.reuters.com/article/africaCrisis/idUSL10840480>.

⁹³ *Cameroon assembly clears way for Biya third term*, Reuters, April 10, 2008, available at <http://www.reuters.com/article/africaCrisis/idUSL10840480>.

⁹⁴ *Cameroon makes way for a King*, BBC NEWS, April 11, 2008, available at <http://news.bbc.co.uk/2/hi/africa/7341358.stm>.

⁹⁵ *Cameroon: Fru Ndi's Ideas On Constitutional Amendment Banned On CRTV*, ALLAFRICA.COM, February 22, 2008, available at <http://allafrica.com/stories/200802221192.html>.

Government.⁹⁶ Human rights activists in Cameroon believe Lapiro's sentence was Government retaliation for his outspoken criticism of the Government and support of the SDF.⁹⁷

3. Right to Participate in Government

43. International treaties, to which Cameroon has acceded, protect an individual's right to participate in government and to be able to stand for election in a fair and democratic way.

a. Article 25 of the ICCPR provides:

"Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) To have access, on general terms of equality, to public service in his country."⁹⁸

b. Article 21 of the UDHR provides:

"(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures."⁹⁹

44. The Government of Cameroon is detaining Lapiro because he exercised his fundamental right to participate in government by being an active member of a political party that opposes the Government and by seeking public office as that party's candidate: "That Lapiro's imprisonment was politically motivated is evident from the fact that he declared his intentions to become SDF Council list leader with the prospects of contesting for the position of Mbanga Mayor in the 2007 Municipal

⁹⁶ *Government Endorses Corruption by Arbitrarily Sentencing Anti-Corruption and Civil Society Activists in Cameroon*, PICAM (Progressive Initiative for Cameroon), June 25, 2009, available at <http://www.picam.org/press-releases/2009/06-25-GovernmentEndorsesCorruption.htm>.

⁹⁷ Amnesty International, Amnesty International Report 2009, *Cameroon: Impunity Underpins Persistent Abuse*, at <http://www.amnesty.org/en/library/asset/AFR17/001/2009/en/126d20cd-de59-11dd-b660-fb1f16ee4622/afr170012009en.pdf>.

⁹⁸ ICCPR, at art. 25.

⁹⁹ UDHR, at art. 21.

Election. CPDM authorities were almost certain that he could grab that coveted position given his soaring popularity.”¹⁰⁰

45. Moreover, by convicting Lapiro of a crime with a lengthy sentence, the Government has sought to stigmatize and intimidate Lapiro, and deny him the opportunity to seek public office in the future. Given that Lapiro committed no crime and the total lack of evidence against him, it is clear that his arrest, detention, and conviction were intended by the Government to punish Lapiro for his attempts to participate in Government and to eliminate the opportunity to do so in the future.

46. For the reasons provided above, Lapiro’s arrest, conviction, and detention are arbitrary and unlawful. The Government is detaining Lapiro as a means to punish him for his lawful exercise of internationally-protected rights to free expression, association, and participation in government. His detention therefore is arbitrary under Category II.

4. Cameroon’s Failure to Observe Domestic and International Norms Relating to the Right to a Fair Trial in Lapiro’s Case Demonstrates that His Detention is Arbitrary

- a) The Government of Cameroon failed to observe domestic and international laws and norms of process when it arrested and prosecuted Lapiro

47. The investigation into the allegations against Lapiro was fraught with numerous violations of Cameroonian law and procedure that led to his first instance trial. Thus, much of the prosecution’s evidence was inadmissible or tainted and, as such, should not have been admitted into evidence by the court. Despite this, the tainted and inadmissible evidence was admitted and became part of the basis of his conviction; Lapiro’s defense was prejudiced as a consequence.

48. Article 90 of the Cameroon Code of Criminal Procedure states that

“the minutes (of the preliminary investigation) should state: (a) the date and time of the start and end of each act of preliminary investigation; (b) the surnames, first names and the capacity of the investigator; (c) where applicable, the authorization set forth at Article 88(2).”¹⁰¹

49. The police breached Article 90 repeatedly during their investigation. This critical information required by Article 90 was missing from almost all of the minutes of witness interviews conducted by the investigation team, including key testimony on which the prosecution relied heavily. As a basic right, the defense has a right to this critical information, but Lapiro was denied this right.

¹⁰⁰ *Lapiro de Mbanga honoured at Cameroon Music Awards*, available at www.cameroononline.org/2010/04/28/lapiro-de-mbanga-honoured-at-cameroon-music-awards; *Lapiro de Mbanga wins global award*, available at www.freemuse.org/sw35866; *Lapiro de Mbanga*, available at www.freedomtcreate.com/Lapiro-de-Mbanga.asp.

¹⁰¹ “Le Procès verbal (d’enquête préliminaire doit énoncer: (a) les date et heure du début et de la fin de chaque operation d’enquête; (b) les noms, prénoms et qualité de l’enquêteur; (c) le cas échéant l’autorisation prévue à l’article 88(2).”

50. As a result of the breach, such evidence should have been declared inadmissible in court since, under Article 3 of the Code of Criminal Procedure such a violation “(a) affects the right to defend oneself granted by valid legal provisions; and (b) it violates a principle of public policy.”¹⁰²

51. Articles 116 (3) and (4) stipulate that:

“(3)...the judicial police officer shall, upon the commencement of the preliminary investigation and risking annulment, inform the accused of: - his right to be assisted by counsel; - his right to remain silent.

(4) Reference to this information must be made in the minutes of the preliminary investigation.”¹⁰³

Lapiro was not informed of these rights, in clear breach of Articles 116 (3) and (4) of the Code of Criminal Procedure. Consequently, Lapiro was questioned by police without having been told that he had a right to remain silent and that he had a right to be assisted by his legal counsel. Again, these are fundamental breaches of criminal law and public policy, which lie at the core of the Cameroonian judicial system. It is such a fundamental violation of domestic law and public policy that the police investigation team must have known of these breaches and wilfully committed them.

52. As a result of these breaches, in accordance with Article 3 of the Code of Criminal Procedure, the minutes of the police’s questioning of Lapiro were inadmissible in court and should never have been considered, much less allowed to form the legal basis for convicting Lapiro.

53. Article 117 (2) states that:

“a suspect who has no known place of residence or who cannot provide any of the guarantees of representation set forth by Article 246 must be brought before the public prosecutor if there is serious and consistent evidence.”¹⁰⁴

This provision is designed to ensure that the criminally accused shall remain free in advance of trial absent special considerations that were never present in Lapiro’s case. Lapiro is a traditional tribal leader in Mbanga and an internationally renowned artist with a known, permanent place of residence. There was no risk that he would become a fugitive or fail to abide by the judicial process. Despite these facts, which were well known to the investigation team at the time, Lapiro was not granted any kind of provisional

¹⁰² “La violation d’une règle de procédure pénale est sanctionnée par la nullité absolue lorsqu’elle: (a) préjudicie aux droits de la défense définies par les dispositions légales en vigueur; (b) porte atteinte à un principe d’ordre public.”

¹⁰³ “(3) L’officier de police Judiciaire est tenu, dès l’ouverture de l’enquête primaire et, à peine de nullité, d’informer le suspect de:

- son droit de se faire assister par un conseil
- son droit de garder silence

(4) Mention de cette information doit être faite au process verbal.”

¹⁰⁴ “A suspect with a known place of residence or who presents one of the guarantees of representation set out in Article 246(g); “Le suspect qui n’a pas de résidence connue ou qui ne présente aucune des garanties de représentations prévues à l’article 246 doit être conduit devant le Procureur de la République s’il existe des indices graves et concordantes ... Le suspect qui a une résidence connue ou qui présente l’une des garanties prévues à l’article 246(g) est laissé en liberté.” must be released.”

release and was instead kept in custody, in conditions prejudicial to his health and well-being, from the time of arrest until he was brought before the public prosecutor. This constitutes a clear violation of Article 117(2).

54. Article 122 states that:

“the accused must be immediately informed of the facts he is accused of. He must be treated physically and morally with humanity.”¹⁰⁵

Lapiro was not informed of the facts he was accused of, in breach of Article 122. Instead, as revealed by the minutes provided by the investigation team, the police launched immediately into questioning Lapiro. The police failed to explain the context behind and reasons for their questions.

55. Again, the violation of Article 122 should, under Article 3 of the Code of Criminal Procedure, have rendered the minutes of the police questioning of Lapiro inadmissible. Instead, in violation of Lapiro’s fundamental rights, those minutes were used wrongfully to convict Lapiro.

56. Article 124 states that:

“the judicial police officer shall mention in the minutes the reason for the custody and the breaks between the interrogations, the day and time when he was either released or brought before the prosecutor.”¹⁰⁶

In Lapiro’s case, the minutes provided by the investigation team revealed that the team did not comply with this fundamental right. Consequently, in accordance with Articles 124(4) and Article 3 of the Code of Criminal Procedure this “leads to the annulment of the minutes and of the subsequent actions without prejudice to the disciplinary sanctions against the judicial police officer.”¹⁰⁷ As with the violation of Article 122, such a breach results in a situation in which the police have a deliberately unfair advantage over the accused, whose right to a defense is thus significantly prejudiced. This was a deliberate violation by the police.

57. In sum, there were numerous breaches of Cameroon’s criminal code committed by the investigation and prosecution teams at every phase of the legal proceedings in Lapiro’s case. These breaches were committed knowingly and apparently were consistent with the pattern of Government abuse and repression in this case. These pivotal breaches should, by law, have rendered the evidence obtained at the time of these breaches inadmissible. Despite this, the prosecution presented them in court and relied heavily on this tainted evidence.

58. Failure to adhere to clearly stated and necessary procedures during a criminal investigation also constitutes a fundamental breach of international law and basic rights recognised the world over.

¹⁰⁵ “Le suspect doit être immédiatement informé des faits qui lui sont reproché. Il doit être traité matériellement et moralement avec humanité.”

¹⁰⁶ “L’officier de Police judiciaire mentionne au procès verbal les motifs de la garde à vue et les repos qui ont séparés les interrogatoires, le jour et l’heure à partir desquels il a été soit libéré, soit conduit devant le Procureur de la République.”

¹⁰⁷ “L’inobservation des règles édictées au présent article entraîne la nullité des procès verbaux et des actes subséquents sans préjudice des sanctions disciplinaires contre l’officier de police Judiciaire.”

a. Article 9 of the UDHR provides that:

“No one shall be subjected to arbitrary arrest, detention or exile.”¹⁰⁸

b. Article 9(1) of the ICCPR provides that:

“(1) Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”¹⁰⁹

As described above, these standards were not complied with, but rather were deliberately breached by the Government and its police and prosecutors.

c. Article 6 of the ACHPR provides that:

“Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily detained.”¹¹⁰

d. Principle 2 of the Body of Principles provides that:

“Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law and by competent officials or persons authorized for that purpose.”¹¹¹

59. More specifically, the police handling of Lapiro’s arrest undoubtedly violated the specific provisions of international law.

60. Article 9(2) of the ICCPR, provides that:

“Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.”¹¹²

Lapiro was not informed of either the reasons for his arrest at the time of his arrest or of the charges against him. Instead, the police directly started questioning Lapiro, as evidenced by the minutes of the preliminary investigation, without explaining to him the reasons for his arrest. As a consequence of that violation of law, Lapiro was thus kept in the dark about the reasons of his arrest, and forced to answer questions without knowing the context or the potential charges against him. This, in turn, deprived him of his right to organize the best possible defense of his case.

61. Principle 12(1) of the Body of Principles provides that:

“There shall be duly recorded: (a) The reasons for the arrest; (b) The time of the arrest and the taking of the arrested person to a place of custody as well as that of his first appearance before a judicial or other authority; (c) The identity

¹⁰⁸ UDHR, at art. 9.

¹⁰⁹ ICCPR, at art. 9(1).

¹¹⁰ ACHPR, at art. 6.

¹¹¹ Body of Principles, at Principle 2.

¹¹² ICCPR, at art. 9(2).

of the law enforcement officials concerned; (d) Precise information concerning the place of custody.”¹¹³

In Lapiro’s case, the minutes of the preliminary investigation did not include (a) the reasons for his arrest (he was only informed about the reasons for his arrest at a subsequent hearing), or (b) the date and time of his first appearance before a judicial authority, again making it impossible for Lapiro to defend his case, in violation of his fundamental rights.

62. Principle 13 of the Body of Principles provides that:

“Any person shall, at the moment of arrest and at the commencement of detention or imprisonment, or promptly thereafter, be provided by the authority responsible for his arrest, detention or imprisonment, respectively, with information on and an explanation of his rights and how to avail himself of such rights.”¹¹⁴

Lapiro was not, at the time of his arrest, informed of his rights. For example, he was not told that he had a right to request the presence of his legal counsel. Lapiro was not informed of his rights until much later, at the time of his hearing.

63. After his hearing at the court of first instance, Lapiro was found guilty of breaching Articles 230 and 232 of the Code of Criminal Procedure. These articles stipulate that:

“Article 230

Individuals who without a valid authorization create an obstruction by distorting the pavement or by diverting the course of a river by constructions or by unlawful use or finally by the exploitation of the adjacent plots of land is punished by a prison sentence of a month to two years.”¹¹⁵

“Article 232

An unlawful assembly means any meeting on the public thoroughfare of at least five individuals, which is likely to disturb the public peace. Individuals who are part of an unlawful assembly and do not withdraw after the first warning by the competent authority will be punished by a prison sentence of fifteen days to six months. If the unlawful assembly can only be dispersed by the police, the sentence is duplicated for the individuals who stayed.”

¹¹³ Body of Principles, at Principle 12(1).

¹¹⁴ Body of Principles, at Principle 13.

¹¹⁵ “Article 230: Est puni d’un emprisonnement d’un mois à deux ans celui qui sans autorisation régulière met obstacle à l’usage difficile en déformant la chaussée ou en détournant le cours de la voie d’eau soit par des constructions, soit par une utilisation abusive, soit par l’exploitation des terrains adjacents. Article 232: L’attroupement s’entend de toute réunion sur la voie publique d’au moins cinq personnes, de nature à troubler la paix publique. Est puni d’un emprisonnement de quinze jours à six mois celui qui faisant partie d’un attroupement ne s’en retire pas à la première sommation de l’autorité compétente. Si l’attroupement n’a pu être dispersé que par le force de l’ordre la peine est doublée contre ceux qui s’y sont maintenus.”

Not only was the court's conviction reached by relying on inadmissible evidence, but in addition, the court of first instance deliberately ignored clear evidence disproving Lapiro's guilt and focused instead on fabricated evidence and altered testimony. Several prosecution witnesses testified to the effect that Lapiro could not have been guilty of unlawful assembly or obstructing public thoroughfares, because Lapiro was watching or filming the events in the hope of stopping the riots or, alternatively, helping to identify the perpetrators of any crimes. This evidence as to Lapiro's innocence was either not admitted or simply disregarded by the court of first instance. As a result, Lapiro has brought a civil claim against one of the judges, Michel Ntyame Ntyame, and Pierre Moulima, a director of SPM, for intentionally altering the witness testimony of one of the prosecution's key witnesses.

64. Lapiro was also found guilty of aiding and abetting looting in a group, as prohibited by Article 236, which states:

“Anyone who as part of a group or gang loots or damages movable or immovable goods shall be punished by an imprisonment of 10 to 20 years. The penalty is life imprisonment if the crime is committed during a state of emergency or exception; The penalty is death if the crime is committed in times of war.”¹¹⁶

65. Again, as with the charges of aiding and abetting unlawful assembly and obstruction of public thoroughfares, the court of first instance not only admitted inadmissible evidence, but also disregarded key witness evidence establishing that Lapiro was watching or filming the events and not participating in them. Key witnesses repeatedly and independently described how they had observed Lapiro watching and filming the events, at a distance, thus proving that Lapiro could not have participated, and did not participate, in the crimes of which he was found guilty.

66. In addition to the above breaches, the court of first instance allowed the Mbanga divisional tax office to submit claims for damages of XAF 80 million (approx. USD 150,000). This was submitted after the end of the final hearing – after a guilty verdict had been returned – in clear violation of Article 385(4) which states that: “In order to be admissible as a civil party, the declaration has to be made before the end of the final hearing.”¹¹⁷

5. Cameroon Denied Lapiro His Right to a Fair Trial and to be Presumed Innocent, in Violation of Domestic and International Law

67. The failure to safeguard Lapiro's right to a fair hearing is a violation of internationally recognized principles.

a. The Preamble to the Cameroonian Constitution that “the law shall ensure the right of every person to a fair hearing before the courts.”¹¹⁸

¹¹⁶ “Est puni d'un emprisonnement de 10 à 20 ans celui qui en réunion ou bande et à force ouverte pille ou détériore des biens mobiliers au immobiliers; La Peine est l'emprisonnement à vie si le crime est commis pendant l'état d'urgence ou d'exception; La peine est la mort si le crime est commis en temps de guerre.”

¹¹⁷ “La déclaration de constitution de la partie civile doit, à peine d'irrecevabilité, être faite avant la cloture des débats.”

¹¹⁸ Preamble, Constitution of the Republic of Cameroon.

b. Article 14(1) of the ICCPR provides that:

“everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.”¹¹⁹

c. Article 14(2) of the ICCPR instructs that:

“[e]veryone charged with a criminal offense shall have the right to be presumed innocent until proved guilty according to law.”¹²⁰

d. Article 10 of the UDHR states that:

“Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.”¹²¹

e. Article 36(1) of the Body of Principles provides that:

“A detained person suspected of or charged with a criminal offence shall be presumed innocent and shall be treated as innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.”¹²²

f. Principle 32(1) of the Body of Principles stipulates that:

“A detained person or his counsel shall be entitled at any time to take proceedings according to domestic law before a judicial or other authority to challenge the lawfulness of his detention in order to obtain his release without delay, if it is unlawful.”¹²³

g. Principle 27 of the Body of Principles sets out that:

“Non-compliance with these principles in obtaining evidence shall be taken into account in determining the admissibility of such evidence against a detained or imprisoned person.”¹²⁴

h. Article 7(d) of the ACHPR provides for:

“the right to be tried within a reasonable time by an impartial court or tribunal.”¹²⁵

i. Article 10(3) of the ACDEG provides that State Parties:

“shall protect the right to equality before the law and equal protection by the law as a fundamental precondition for a just democratic society.”¹²⁶

¹¹⁹ ICCPR, at art. 14(1).

¹²⁰ ICCPR, at art. 14(2).

¹²¹ UDHR, at art. 10.

¹²² Body of Principles, at Principle 36(1).

¹²³ Body of Principles, at Principle 32(1).

¹²⁴ Body of Principles, at Principle 27.

¹²⁵ ACHPR, at art. 7(d).

¹²⁶ ACDEG, at art. 10(3).

68. Lapiro's conviction was based on sham proceedings designed to cover up the true reason for detaining Lapiro – *i.e.*, his vocal criticisms, political speech in his songs, and affiliation with the SDF. The Cameroonian trial court prosecuted Lapiro for crimes that he did not commit, without proper regard for the facts, evidence, burdens of proof, procedural requirements, and due process. The court completely disregarded the fact that much of the prosecution's evidence had been gathered in contravention of the Cameroon Code of Criminal Procedure.

69. It is widely reported that Cameroon's judiciary is corrupt and inappropriately influenced by the executive;¹²⁷ indeed, the entire judiciary is under the direct and total control of the executive. Lapiro's case, from the moment of arrest to the current inactivity of the Supreme Court in addressing his submissions, perfectly reflects the systemic problems and corruption in President Biya's autocracy. Lapiro has tried for years to address these problems through his music and now seeks to confront them through his civil claims against highly placed individuals who coerced witnesses into giving false testimony and who unduly and improperly influenced the trial by introducing inadmissible evidence and ensuring that the court ignored the exculpatory evidence.

70. Moreover, Lapiro's conviction, in spite of a lack of evidence and procedural flaws as outlined above, demonstrates that the court convicted Lapiro at the behest of President Biya and his political allies. The courts are neither impartial nor independent and, in Lapiro's case, intentionally denied him a fair trial.

71. As set out above, the police investigation team acted in repeated violation of the Code of Criminal Procedure. As carried out, the investigation violated the Cameroonian Constitution, which stipulates that "no person may be prosecuted, arrested or detained except in the cases and according to the manner determined by law."¹²⁸ As a result, much of the evidence that was admitted at trial had been obtained in violation of the law. Lapiro's counsel objected to the use of this tainted evidence, but the court ignored the objections and still admitted the tainted evidence. Consequently, much of the prosecution's evidence should have been ruled inadmissible, in accordance with Article 3 of the Code of Criminal Procedure, which states that tainted evidence is inadmissible if it:

“(a) affects the right to defend oneself granted by valid legal provisions; and
(b) it violates a principle of public policy.”

72. The court of first instance's failure to adhere to this rule is a clear and deliberate violation of public policy and fundamental rights acknowledged in Cameroon and the world over. This hindered Lapiro's defense and prevented him from putting forward a proper defense.

73. The court's sentencing of Lapiro also belies the political agenda behind his prosecution and provides further evidence that he was denied a fair trial. Lapiro was sentenced to a three-year prison sentence for aiding and abetting looting in a group (*pillage en bande*), despite the fact that the direct perpetrators of the crime were

¹²⁷ See, e.g., Office of the U.S. Trade Representative, 2008 Comprehensive Report on U.S. Trade and Investment Policy Toward Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act 86, available at http://www.ustr.gov/sites/default/files/asset_upload_file203_14905.pdf.

¹²⁸ Preamble, Constitution of the Republic of Cameroon.

sentenced to prison terms of a mere 18 months, *i.e.*, only half as long as Lapiro's sentence of three years. Moreover, the direct perpetrators benefited from presidential pardons barely three months into their prison terms, whereas Lapiro remains in jail for a lesser crime he did not commit. More importantly, the perpetrators of the looting were not charged with looting in a group at all, but with crimes entailing lower sentences. Consequently, Lapiro was convicted and is currently serving an extended prison term as the accomplice of a crime for which no perpetrators were even charged, much less sentenced. Lapiro's trial, conviction, and sentencing were profoundly unfair, designed not to do justice, but rather to reach a certain predetermined outcome that would enable the Government to detain Lapiro indefinitely – as a means of silencing and punishing him for exercising fundamental rights of expression and association, which are widely recognized under both domestic and international law.

74. Lapiro appealed his conviction and sentence to the Court of Appeal. The Court of Appeal, however, declined to consider any of the Lapiro's grounds for appeal and instead upheld his conviction and sentence, without ever conducting a truly independent review of the facts and the law. By refusing to consider the admission of inadmissible evidence and other breaches of law highlighted above, the Court of Appeal violated Lapiro's fundamental rights to legal process and a fair hearing before an independent and impartial tribunal. Lapiro appealed on multiple grounds, but the Court of Appeal flatly denied the appeal on the ground that supposedly it was untimely. In reality, the appeal was timely and Lapiro had the right to request annulment of the verdict against him at *any* stage of the proceedings in accordance with Cameroonian laws on criminal procedure. There is no time limit for appealing a court's violation of a rule of criminal procedure – here the violation of the rules on admission of witness evidence set forth under Article 90 of the Code of Criminal Procedure – which affects one's rights to defend oneself.¹²⁹

75. In denying Lapiro's request for annulment on the grounds that it had been submitted belatedly, the Court of Appeal unlawfully re-qualified a request for annulment that can be filed at any stage of the proceedings into a request which must be raised in the early stages of a proceeding. In doing so, and indeed in refusing even to consider Lapiro's request, the Court of Appeal denied Lapiro the possibility of defending his case fully and fairly, in violation of the laws of criminal procedure of Cameroon. Although it refused to hear Lapiro's case, the Court of Appeal inexplicably increased the fine imposed on Lapiro by the trial court.

76. Lapiro has suffered from a denial of due process, even at the level of the highest Court. Lapiro has appealed his conviction, sentencing, and fines to the Supreme Court, which refuses to hear his case. Indeed, the Supreme Court of Cameroon has endlessly postponed hearing his case – and for no lawful reason. At present, no hearing date has been scheduled. The Supreme Court evidently is in no hurry to examine the many procedural errors and witness tampering that resulted in Lapiro's conviction and sentencing.

- a) The Government of Cameroon's Refusal to Hear Lapiro's Appeal to the Supreme Court for Provisional Release Violates Domestic and International Law

¹²⁹ See Article 3(b) Code of Criminal Procedure.

77. The Supreme Court has declined to schedule a hearing date for Lapiro's request for provisional release, filed in December 2009, although it should have ruled on the request within a week.¹³⁰ Its continued failure to do so is a political ploy to extend Lapiro's wrongful detention. This violation of Cameroonian law is further evidence that the government seeks to silence and detain him as long as possible.

78. Lapiro is currently detained in New Bell Prison, which is well known for its harsh and inhumane conditions. At New Bell, Lapiro has no access to adequate food, medication and health care and is denied regular exercise. As a consequence, Lapiro's health has sharply deteriorated, and he has applied for provisional release repeatedly, at each of the stages of the proceedings, and right from the time of this arrest. Although Lapiro was entitled by law to make repeated requests for provisional release, each and every one of his requests was denied. What is more, Lapiro's requests were denied although he provided the guarantees required for provisional release in Cameroon. His latest request for provisional release has been pending before the Supreme Court since 4 September 2009, although the Supreme Court had the obligation to act on Lapiro's request urgently, within a week.¹³¹ Instead, the Supreme Court has persistently ignored Lapiro's request for provisional release for over seven months.

79. For the reasons stated above, Lapiro's arrest and detention violated guarantees for a fair trial found in both Cameroonian and international law. His detention is thus "arbitrary" under Category III.

V. INDICATE INTERNAL STEPS, INCLUDING DOMESTIC REMEDIES, TAKEN ESPECIALLY WITH THE LEGAL AND ADMINISTRATIVE AUTHORITIES, PARTICULARLY FOR THE PURPOSE OF ESTABLISHING THE DETENTION AND, AS APPROPRIATE, THEIR RESULTS OR THE REASONS WHY SUCH STEPS OR REMEDIES WERE INEFFECTIVE OR WHY THEY WERE NOT TAKEN

80. Lapiro was convicted in 2008 of crimes relating to nation-wide demonstrations that erupted in February 2008. As described in detail above, Lapiro has diligently pursued available domestic judicial remedies in Cameroon to no avail. His appeal to the Supreme Court submitted at the end of 2009 is pending, and his request for provisional release has been delayed interminably while Lapiro waits in prison.

¹³⁰ See Law No. 2006-016 on the organization and functioning of the Supreme Court, dated December 29, 2006.

¹³¹ See Article 32(3) Code of Criminal Procedure ("Are deemed urgent in particular summary judgment proceedings, alimony claims, and requests for provisional release.").

VI. FULL NAME AND ADDRESS OF THE PERSON(S) SUBMITTING THE INFORMATION (TELEPHONE AND FAX NUMBER, IF POSSIBLE)

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Appendix A

Lyrics to Constitution Constipée by Lapiro de Mbanga¹³²

Libérez Big Katika, libérez Répé Ndoss,
Le pater est fatigué, oooh, foutez-lui la paix
Libérez Big Katika, libérez Répé Ndoss,
Le pacho est daya, oooh, foutez lui la paix

2011, Cameroon must change!

Libérez Big Katika, libérez Répé Ndoss,
Le pater est fatigué, oooh, foutez-lui la paix
Libérez Big Katika, libérez Répé Ndoss,
Le pacho est daya, oooh, foutez lui la paix

Big Katika don tired oooh,
He don tired,
Répé don slack oooh,
He don fatigué
Wou na lep he, he rest,
He wan go rest

Big Katika don tired,
He don tired
Répé don been cass,
He don fatigué!
Wou na lep he, he rest,
he want go rest.

Libérez Big Katika, libérez Répé Ndoss,
Le pater est fatigué, oooh,
Foutez lui la paix...
Libérez Big Katika, Libérez Répé Ndoss,
Le Pacho est dayed, oooh, foutez lui la Paix...

Seigneur Jésus, appelle ton frère, le Prophète Mohamed.
Au secours, venez-nous délivrer, l'heure est grave.
Les bandits en col blanc veulent braquer la constitution de mon pays.
Les fossoyeurs de la République veulent mettre le lion en cage,
Les poussins veulent échapper aux serres de l'épervier;
Le coq est harcelé et menacé d'une tentative de hold up.
En vérité, en vérité, je vous le dis, ils veulent tcha Pablo en otage.

Libérez Big Katika, libérez Répé Ndoss,
Le pater est fatigué, oooh, foutez-lui la paix
Libérez Big Katika, libérez Répé Ndoss,
Le pacho est daya, oooh, foutez lui la paix...

¹³² Free (Liberos) Lapiro, Mondomix, 2009, available at http://mymondomix.com/Publish/fichier/765/1569_53.pdf.

C'est quoi l'urgence et pourquoi cet acharnement farouche à modifier absolument l'Article 6 alinéa 2 d'une constitution dont la mise en application graduelle n'a jamais été amorcée?

10 années sont passées, le Sénat et les Régions sont toujours attendues...

10 années sont passées le peuple attend toujours la déclaration des biens des individus appelés à gérer les fonds publics ; ce qui en cette période de lutte contre la corruption endémique est une priorité!

10 années sont passées, le peuple attend toujours d'avoir une structure indépendante pour gérer les élections libres et transparentes afin que la grande majorité des citoyens aient le droit de voter;

Ca, les marathoniens de la mangeoire n'y trouvent aucun intérêt; sauf celui d'éliminer la limitation du mandat présidentiel de la Constitution.

Aux Etats Unis d'Amérique, en France, en Union Soviétique et dans les vraies démocraties, les mandats présidentiels sont limités; au Cameroun, pays de mes ancêtres, berceau de la démocratie avancée, apaisée, des fraudes électorales et paradis de la corruption, on s'en fout. On s'en fout. Après tout, le Cameroun, c'est le Cameroun ...

Constitution à gauche,

Constitution à droite,

Révision en haut, révision en bas

Motion de soutien par-ci, contre motion par là

Marche de soutien le jour, contre marche la nuit.

Translation of the penultimate verse:

What is the urgency and why this fierce tenacity to absolutely change Article 6 paragraph 2 of a constitution whose gradual implementation has never even started ?

10 years have passed, the Senate and the regions are still waited for ...

10 years have passed and the people are still waiting for the declaration of the assets of individuals involved in managing public funds, which in this period of struggle against endemic corruption is a priority!

10 years have passed, the people are still waiting to have an independent structure to manage free and transparent elections so that the vast majority of citizens have the right to vote.

For that, the marathonians of the trough have no interest, except to eliminate the Presidential term limits of the Constitution.

In the United States of America, France, the Soviet Union and in true democracies, presidential terms are limited, in Cameroon, the country of my ancestors, the cradle of advanced democracy, there is appeasement, electoral fraud and a paradise of corruption. No-one cares. No-one cares.

After all, Cameroon is Cameroon.