



BAR HUMAN RIGHTS
COMMITTEE OF
ENGLAND AND WALES

His Excellency
Mr. Philemon YANG
Prime Minister, Head of Government
Star Building
PO Box 1000
YAOUNDE
Cameroun

London, 06 August 2013

Dear Mr. Philemon YANG,

The Bar Human Rights Committee (“BHRC”) writes concerning charges that recently have been brought by Cameroon against members of the Mbororo Social and Cultural Development Association (MBOSCUDA), an organisation which promotes the rights of the minority Mbororo pastoralists in Cameroon. We write in relation to two sets of proceedings.

The first proceedings are, against the vice-president of the MBOSCUDA, Mr Musa Usman Ndamba, who appeared at the Court of First Instance in Bamenda on the 10th May 2013. He faces four separate charges: propagating false information capable of damaging the reputation of public authorities, making false declarations in court whilst under oath, making false allegations against a Mr Baba Ahmadou Danpullo, and injuring his reputation as a result. Pleas of not guilty have been entered to all counts. It appears that, under the law of Cameroon, these offences are punishable by a custodial sentence.

We understand that Mr Baba Ahmadou Danpullo is a powerful commercial rancher and a member of the Central Committee of the ruling Cameroon People’s Democratic Movement (CPDM) Party. We are aware of reports that associates of Mr Danpullo have been making threats against Mr Ndamba and other members of MBOSCUDA.

The second proceedings relate to the case of five members of MBOSCUDA who have been arrested for offences of possessing firearms. We understand that these five members -Jeidoh

Duni, Sali Haman, Adamou Isa, Dahirou Beloumi and Njawga Duni -were forced into hiding after they acted as witnesses in an investigation into the attempted murder of Mr Jeidoh Duni (a MBOSCUDA activist and paralegal). They had provided evidence that identified suspects in the assassination attempt as hired killers; there are suggestions that Mr Baba Ahmadou Danpullo is connected to the incident. We do not know the veracity of the suggestions, make no finding on the strength of evidence but support fair impartial due process.

On the 23rd April 2013 the Military Tribunal at Bafoussam issued summons to these MBOSCUDA members to appear before the Tribunal. NGOs working in this field have reported that these individuals are being pursued as an act of retaliation following their giving evidence in the above case.

In respect of both cases, we wish to draw your attention to the following specific concerns, and request action to be taken on the below issues:

(1) The Trial of Civilians in Military Courts

The BHRC notes that the five MBOSCUDA members described in the second case are to be tried by a military tribunal. It appears that, under Cameroon law, firearms offences of this nature are tried by military courts, even where the suspect is a civilian. The practice of trying civilians in military tribunals is contrary to and condemned by international law.

Cameroon is a party to the African Charter on Human and People's Rights. The African Commission on Human and People's Rights, interpreting the African Charter, has stated that military courts "*should not, in any circumstances whatsoever, have jurisdiction over civilians*" (The Dakar Declaration and Recommendations, as adopted in the Resolution on the Right to a Fair Trial and Legal Assistance in Africa (26th session in Kigali, Rwanda, 1-15 November 1999).

Furthermore, the United Nations Human Rights Committee has called for the removal of military jurisdiction over civilians. The Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, presented before the former United Nations Human Rights Commission in 2005, states that "*The jurisdiction of military tribunals must be restricted solely to specifically military offences committed by military personnel, to*

the exclusion of human rights violations, which shall come under the jurisdiction of the ordinary domestic courts or, where appropriate, in the case of serious crimes under international law, of an international or internationalized criminal court.” There is no suggestion that the individuals who have been arrested in this case are military personnel.

Military tribunals do not guarantee fair trial standards as required by Article 14 of the International Covenant on Civil and Political Rights and Article 7 of the African Charter on Human and Peoples Rights. Previous cases would suggest that these rights have been breached. (e.g. *Akwanga v Cameroon*, CCPR/101/D/1813/2008)

(2) The ongoing criminalisation of defamation in Cameroon

Furthermore, the BHRC considers that the prosecution of Mr Ndamba involves attaching criminal liability to defamation. The existence of criminal liability for defamation is contrary to international legal standards.

The BHRC reminds the Cameroonian government of the African Commission's call for criminal defamation laws to be repealed, on the basis that they "*constitute a serious interference with freedom of expression*" (Resolution 169 of the African Commission on Human and Peoples' Rights). Such laws lead to interference with freedom of expression, as guaranteed by the African Charter, the Universal Declaration of Human Rights and other regional and international instruments.

We note that, frequently, criminal defamation laws are used to prevent or stifle legitimate criticism of people in powerful positions, contrary to basic freedom of expression. This appears to be the case with Mr Ndamba's alleged criticism of Mr Danpullo. These conclusions were drawn in a draft report of the Working Group on the UN Universal Periodic Review of Cameroon (3/5/13), which stated that "*criminal prosecutions for peaceful criticism of public officials violates international human rights law and standards*".

(3) Protection of Minority Rights

NGOs acting in Cameroon have expressed concern that these particular prosecutions are a direct consequence of the individuals' membership of the Mbororo group.

Under the Constitution of the Republic of Cameroon the State is bound to ensure protection of minorities and the preservation of indigenous populations. This includes not harassing persons on the basis of their origin or of their religious, philosophical or political opinions or beliefs.

In this regard Cameroon is also party to numerous international instruments, which include the Declaration on Rights of Indigenous Peoples 2007, Article 27 of the International Covenant on Civil and Political Rights, Article 1 of the Convention on Elimination of All Forms of Racial Discrimination 1966, and the African Charter on Human and People's Rights, among others.

It is noted that on the 23rd February 2010, at the UN Committee of Elimination of Racial Discrimination (CERD), Mr Joseph Dion Ngute, Cameroon's Minister -Delegate in charge of Relations with the Commonwealth stated that "*the Government of Cameroon was proud of the progress it had made in the fight against discrimination, but remained concerned of facts, among which was the access of Pygmies and Mbororos to land and ownership of land*". The BHRC welcomes such progress, but, in light of the above cases is concerned that a significant amount of work remains.

Recommendations

In respect of the above, we ask for the government to take the following steps:

- Implement specific measures to protect the rights of the indigenous Mbororo minority
- Cease the practice of trying civilians before military tribunals, and order the discontinuance of the present prosecutions against the five individuals described above.
- Make efforts to bring Cameroonian law relating to the trial of individuals before military tribunals in line with international standards.
- Take action in preventing the ongoing harassment of Mbororo people and other indigenous groups in Cameroon.

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- Bring Cameroonian law in line with international standards by decriminalising defamation.
- Execute the recommendations made by the Jani Commission in 2003, which investigated the conflict between the Mbororo people and Mr Danpullo. The report recommended the return of Mbororo lands which were illegally occupied by Mr Danpullo, payment of compensation to those who were displaced as consequence, and re-establishment of legal boundaries for the lands of each party.

We look forward to receiving your response.

Sincerely,



Kirsty Brimelow QC

Chairwoman, Bar Human Rights Committee of England and Wales (BHRC)

The Bar Human Rights Committee of England and Wales (“BHRC”) is the international human rights arm of the Bar of England and Wales. It is an independent body concerned with protecting the rights of advocates, judges and human rights defenders around the world. The Committee is concerned with defending the rule of law and internationally recognised legal standards relating to human rights and the right to a fair trial. The remit of BHRC extends to all countries of the world, apart from its own jurisdiction of England & Wales. This reflects the Committee's need to maintain its role as an independent but legally qualified observer, critic and advisor, with internationally accepted rule of law principles at the heart of its agenda.

CC to:

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