The African Commission's Ruling in *Gumne et al v. Cameroun* : Digest and Comment

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Nota: *Some minds are probably not clear on what the African Commission decided in Communication 266, in part because of the length and wordiness of the ruling. Predictably, Republique du Cameroun itself, for dishonest self-serving political reasons deliberately misrepresents the ruling to its people, many of who seem indifferent to it or appear not to understand its import. What follows is an abridged version of the ruling. This synopsis and the comment appended at the end of it are intended to facilitate and further understanding of the matters in issue in the case and the decision that was arrived at. The text of the ruling, though abridged, is entirely in the words of the Commission itself. The headings in the text and the comment at the end are of course mine.*

The Commission's Decision on Admissibility

The admissibility of communications brought pursuant to Article 55 of the African Charter is governed by the conditions stipulated in Article 56 of the African Charter. This Article lays down seven (7) conditions, which must be fulfilled by a Complainant for a communication to be declared admissible. Of the seven conditions, the Respondent State claims that the Complainants have not fulfilled four, namely: Article 56(1), (2), (3) and (4)**.** From the submissions of the Respondent State, there is an inference that Article 56(7) has not been fulfilled by the Complainant.

As to the condition that the Complaint must state the name(s) of its author(s):

The Respondent State submits that contrary to Article 56(1) of the African Charter, the victims of the alleged violations, indicated in the communication have not been identified. ... [T]he African Commission notes that the authors of the communication have been identified at page 1 of the communication and they are 14 in number. Their ages and professions have also been given as well as their addresses of service. Furthermore, the communication reveals that the authors of the communication are members of the Southern Cameroons National Council (SCNC) and the Southern Cameroons Peoples' Organization (SCAPO), organisations that were established principally to protect and advance the human and peoples' rights of Southern Cameroonians, including their right to self-determination. Article 56 (1) of the African Charter requires a communication to indicate its authors and not the victims of the violations. Thus the present communication cannot be declared inadmissible on the basis of Article 56(1). ...

As to the condition that the Complaint must be compatibility with AU Constitutive Act and the African Charter:

The Respondent State argues that this communication does not meet the requirements of Article 56(2), because the Complainants are advocating for secession under the pretext of allegations of violation of the provisions of the African Charter and other universal human rights instruments. While conceding that the

right to self determination is an inalienable right, the Respondent State argues that the UN has established that this right should not "be interpreted as authorising or encouraging any measure that would partly or wholly compromise the entire territory or the political unity of sovereign and independent States". The Respondent State submits further that it is established that the only entities likely as peoples to call for the external right to self determination from pre-existing States are the "peoples under foreign subjugation, domination and exploitation". The Complainants argue that the communication meets the requirements in Article 56(2) because it alleges violations of the African Charter and other international human rights instruments. ...

It is apparent to the African Commission that the present communication meets all the ... requirements [of Article 56(2)]**.** The communication has been brought against Cameroon, which is State party to the African Charter. It reveals *prima facie* violations of the African Charter, all of which are alleged to have continued to occur following Cameroon's ratification of the African Charter.

As to the condition that the Complaint must not be written in insulting or disparaging language:

The Respondent State also submits that the communication has been written in disparaging or insulting language. The Respondent State argues that the Complainants' use of the phrases such as "forceful annexation**"** and "state sponsored terrorism**"** to characterise violations by the government of Cameroon against the people of Southern Cameroons, allegedly committed between 1961 and 2002 and a report titled "Let My People Go Part II", are disparaging and insulting language, contrary to Article 56 (3), of the African Charter. ...

The African Commission acknowledges that the above-mentioned provision is quite subjective because statements that could be disparaging or insulting to one person may not be seen in the same light by another person. Matters relating to human rights violations normally elicit strong language from the victims of the said violations. Nonetheless Complainants should endeavour to be respectful in the phrases they choose to use when presenting their communications. ...

As to the condition that the Complaint must not be based exclusively on news from the media:

The African Commission has perused the appendices to the communication. ... Article 56(4) relates to communications brought before the African Commission based exclusively on news disseminated through the mass media. Looking at the nature of documents described herein above, it is quite clear that the Complainants do not base their case on mass media news, but on official records and documents, as well as international statutes. This clearly falls outside the ambit of Article 56(4).

As to the condition that Complainant(s) must have exhausted all available local remedies:

With respect to Article 56(5), which relates to exhaustion of local remedies, the Complainants submits that there are no local remedies to exhaust in respect of the claim for self-determination because this is a matter for an international forum and not a domestic one. They argue that the issue for determination in this communication is whether or not the "union" of *La République du Cameroun* and Southern Cameroons was effected in accordance with UN Resolutions, International Treaty obligations and indeed International law. They assert that the right to self determination is a matter that cannot be determined by a domestic court. The Respondent State concedes that no local remedies exist with respect to the claim for self determination.

As to the condition that the Complaint must not deal with a matter already settled by international procedure:

The Respondent State, however argues that, the right to self determination for the people of Southern Cameroons was solved when the British Trusteeship over British Cameroon ended following the plebiscite of 11 and 12 February 1961. Furthermore, it argues that the 1963 International Court of Justice (ICJ) decision in the Northern Cameroon case found in favour of the Republic of Cameroon and put the matter of Southern Cameroons to rest. The Respondent State believes that the Complainants are seeking a similar declaratory decision which should not be entertained by the African Commission.

The African Commission believes that this argument is an inference by the Respondent State that the Complainants have not met the conditions laid down in Article 56(7) of the African Charter. ... Article 56(7) of the African Charter bars the African Commission from entertaining cases that have been settled by another international settlement procedure. The issue that the African Commission needs to examine is whether the abovementioned complaint has been settled by some other international settlement procedure.

The African Commission has read the judgement of the ICJ in the Northern Cameroons case. In that case the Government of the Republic of Cameroon asked the Court to declare whether, "in the application of the Trusteeship Agreement for the Territory of the Cameroons under the British Administration, the United Kingdom failed, with regard to the Northern Cameroons, to respect certain obligations flowing from that Agreement."

It is the view of the African Commission that the matter before the ICJ was unrelated to the issues before the African Commission. The African Commission states that for a matter to fall within the scope of Article 56(7) of the African Charter it should have involved the same parties, the same issues, raised by the complaint before the African Commission, and must have been settled by an international or regional mechanism. The case before the ICJ was between the Republic of

Cameroon and the United Kingdom, and involved the interpretation and application of the Trusteeship treaty. These facts clearly differ from the complaint before the Commission. As such the case falls outside the scope of Article 56(7) of the African Charter.

For the reasons outlined herein above, the African Commission declares this communication admissible.

The Respondent State questions the Commission's jurisdiction *rationae temporis ...* [and] also challenged the notion, or the existence of a territory known as "Southern Cameroons." ... The Respondent State, similarly, questions the existence of a "people" known as "Southern Cameroonians" and as such states that, "*...[s]upposing that there are a people of Southern Cameroons, nevertheless, it would have to be proven that it is entitled to claim its self determination, under the specific form of "separate statehood".*

The Commission proposes to deal, firstly, with the question of its jurisdiction then the question whether the people of "Southern Cameroons" exist as a "people," and whether the territory otherwise referred to as "Southern Cameroons" does exist, and if it does, can its "people" exercise their alleged "right to self-determination?"

As to the Commission's jurisdiction in respect of time:

The Respondent State raises objection to the Commission's exercise of jurisdiction *rationae temporis*. The Complainants responded that although those violations were carried out before the African Charter came into force for Cameroon, they did not stop even after 18 December 1989. The Commission acknowledges the Respondent State's argument that its jurisdiction *rationae temporis* is limited *in limine*, and as such it cannot address violations retrospective the entry into force of the Charter. The Commission is aware that the Africa Charter entered into force in respect of the Respondent State on 18 December 1989. The Commission has been informed by the Complainants that some of the alleged violations occurred before that date. ...

The Commission has through its jurisprudence established the principle that violations that occurred prior to the entry into force of the Charter, in respect of a State party, shall be deemed to be within the jurisdiction *rationae temporis* of the Commission, if they continue, after the entry into force of the Charter. The effects of such violations may themselves constitute violations under the Charter. In other words, this principle presupposes the failure by the State party to adopt measures, as required by Article 1 of the Africa Charter to redress the violations and their effects, hence failing to respect, and guarantee the rights.

The Commission therefore decides that it has the competence to consider this complaint against the Respondent State, in relation to violations which emanated prior to 18 December 1989, the date the African Charter entered into force for the Republic of Cameroon, if such violations or their residual effects continued after that date.

The Commission's Decision on the Merits

Regarding the claim based on entitlement to enjoy rights and freedoms without distinction:

The Complainants allege that there have been various cases of discrimination against the people of Southern Cameroons contrary to Article 2 [entitlement to enjoy rights without discrimination] of the African Charter. The Complainants submit that Southern Cameroonians are discriminated against by the Respondent State, in various forms. These include ... economic marginalisation through the denial of basic infrastructure; such as roads, persistence high levels of unemployment and illiteracy in Southern Cameroons. It is submitted that Southern Cameroonians are discriminated against in the legal and judicial system. The Complainants submitted further that the company law applied in Southern Cameroons was abolished in favour of the Napoleonic Code ... They argued that Southern Cameroonians could not register companies whose articles of association were in the English language. ...

The Complainants argue that ... in order for the Southern Cameroonian companies to do business they had to register under the Francophone civil law system. The Respondent State did not dispute this allegation. English is one of the official languages in Cameroon. Southern Cameroonians had a legitimate expectation that the English language could be used to conduct official business, including the registration of companies. The Commission makes a finding that the refusal to register companies established by Southern Cameroonians on account of language amounted to a violation of Article 2 of the African Charter.

The Complainants alleged that the ratification of OHADA was discriminatory to individual businesses and business people from Southern Cameroon. ... The Complainants submit that objections against OHADA were ignored, and that companies not registered under OHADA could not open bank accounts in Cameroon. ... The OHADA ratification ... resulted in the discrimination of Anglophone based companies and businesses, which could not open bank accounts unless they registered under OHADA. There was no response from the Respondent State on this issue. Nor were any measures taken to address this complaint. Notwithstanding the translation of OHADA into English, it was wrong for institutions, such as banks to force Southern Cameroons based companies to change their basic documents into French. The banks and other institutions could have dealt with the companies without imposing the language conditionality. Banking documents should have been translated into English. The Commission finds that the Respondent State failed to address the concerns of Southern Cameroonian businesses, which were forced to re-register under OHADA, and as such violated Article 2 of the African Charter.

Regarding the claim based on the right to equality before the law and to equal protection of the law:

The Complainants alleged violation of Article 3**,** which protects the individual's right to equality before the law and equal protection of the law. African Commission notes

that although the communication alleges violation of Article 3 of the African Charter, the Complainants did not specifically argue or bring evidence of any instance against the Respondent State. In the absence of such evidence, the African Commission cannot find violation of Article 3 of the Charter.

Regarding the claim based on the right to life and to personal integrity:

The Complainants allege violations of Article 4, the right to life, inviolability of the human being, and the integrity of the person. They submit that the Respondent State committed violations against individuals in Southern Cameroon. The communication gives account of people who were killed by the police during violent suppressions of peaceful demonstrations, or died in detention as a result of the bad conditions and the ill-treatment in prison. The Respondent State contends that the allegations are not substantiated by documentary evidence. ... The Respondent State however, admitted to the death of six people on the 26th March 1990, which occurred after a confrontation between security forces and demonstrators, whom it argued, were involved in an illegal political rally in Bamenda.

The African Commission observes that the parties do not have equal access to official evidences such as police reports, death certificates and forensic medical certificates. The Complainants endeavoured to inquire into the alleged violations, and gave names of the alleged victims. The Respondent State restricted itself to questioning the reliability of the evidence presented by the Complainants. It did not deny the alleged violations. The Respondent State had the opportunity to inquire into the alleged violations. The Respondent State did not conduct such investigation and redress the victims; it thus failed to protect the rights of the alleged victims. The Commission finds that it violated Article 4 of the African Charter.

Regarding the claim based on the right to respect of one's dignity and to freedom from arbitrary arrest or detention, or torture or other inhuman and degrading treatment:

The communication gives details of victims who were subjected to torture, amputations, and denial of medical treatment by the Respondent State's law enforcement officers, in violation of Article 5 of the African Charter. The Respondent State responded by stating that some SCNC and SCAPO members had perpetrated terrorist acts in the country, killing law enforcement officers, vandalising State properties, stealing weapons and ammunitions.

The Commission holds the view that even if the State was fighting alleged terrorist activities, it was not justified to subject victims to torture, cruel, inhuman and degrading punishment and treatment. It therefore finds that the Respondent State violated Article 5 of the African Charter.

Regarding the claim based on the right to liberty and to personal security:

The communication further gives details of victims who were arrested, detained for days, sometimes for months without trial before being released in violation of Article

6 of the Charter. The Respondent State did not deny the allegations, instead it tried to justify them. ... The Commission states that a State Party cannot justify violations of the African Charter by relying on the limitation under Article 6 of the Charter. ... In view of the foregoing, the Commission finds that the Respondent State has violated Article 6 as alleged by the Complainants.

Regarding the claim based on the right to fair trial:

The Complainants alleged that the Respondent State violated Article 7(1), on the right to fair trial. They allege that individuals were transferred from Southern Cameroons to Francophone Cameroon for trial by military tribunals and that other victims were tried in civil law courts, without interpreters. ...

The Commission wishes to state that the rights outlined in Article 7 constitute fundamental tenets of any democratic state. It is through respect for these rights that other rights guaranteed by the Charter may also be realised. ... The Respondent state did not explain why it transferred individuals from [the Southern Cameroons] for trial by the Yaoundé and Bafoussam Military Tribunals, nor the reason why the victims were tried by tribunals outside the jurisdictions where the offences were allegedly committed. The Commission has stated previously that trial by military courts does not *per se* constitute a violation of the right to be tried by a competent organ. What poses problem is the fact that, very often, the military tribunals are an extension of the executive, rather than the judiciary. Military tribunals are not intended to try civilians. They are established to try military personnel under laws and regulations which govern the military. ...

The accused persons were not military personnel. The offences alleged to have been committed were quite capable of being tried by normal courts within the jurisdictional areas the offences were allegedly committed. The Commission finds that trying civilians by the Yaoundé and the Bafoussam Military Tribunals was a violation of Article 7(1) (b) of the Charter.

The Complaints submit that the accused were tried in a language they did not understand, without the help of interpreters. The Respondent State did not contradict that allegation. The Commission states that it is a prerequisite of the right to a fair trial, for a person to be tried in a language he understands, otherwise the right to defence is clearly hampered. A person put in such a situation cannot adequately prepare his defence, since he would not understand what he is being accused of, nor would he apprehend the legal arguments mounted against him. ...

[I]t is the State's duty to make sure that, when a trial is conducted in a language that the accused does not speak, he/she is provided with the assistance of an interpreter. Failing to do that, amounts to a violation of the right to a fair trial. The Commission therefore concludes that the Respondent State violated Article 7(1)(b) (c) and (d) of the Charter.

Regarding the claim based on the right to receive information and to express and disseminate one's opinions:

The communication alleges violation of article 9 [freedom of information and expression] of the Charter. The Complainants did not make any submissions concerning Article 9. The Commission has therefore not made any finding regarding Article 9.

Regarding the claim based on the right to freedom of association:

The Complainants allege that the Respondent State violated Articles 10 [freedom of association] of the African Charter. The parties did not make any submission on Article 10 of the Charter. The Commission finds no violation of Article 10.

Regarding the claim based on the right to freedom of assembly:

The Commission examined whether Articles 11 [freedom of assembly] was violated. The Commission deems that there is enough information on the record, based on the both parties to enable the Commission to make its determination. The facts before the Commission depict cases of suppression of demonstrations, including the use of force against, the arrest and detention of people taking part in such demonstrations. ...

The Complainant states that several victims were arrested and held in detention for long periods, for exercising their right to freedom of assembly. Some of the detained persons were acquitted. There were others who died at the hands of security forces or in detention, after being accused of participation in "unlawful political rallies." The victims who died, or had been detained suffered while exercising their exercise of the right to freedom of assembly. ... The Respondent State admits that it detained demonstrators, applied excessive force to enforce law and order, and in some cases lives were lost. The Commission concludes therefore that Article 11 of the African Charter was violated.

Regarding the claim based on the right to freedom of movement:

The Complainants alleged that Article 12 [freedom of movement] was violated by the Respondent State. They did not substantiate any infringement by the Respondent State of the right to freedom of movement. The Commission finds no violation of Article 12.

Regarding the claim based on the right to participate in government and to equal access to public service:

The Complainants alleged violation of Article 13 [participation in government and equal access to public service]. They stated that the people of Southern Cameroon were not adequately represented in the institutions of the Republic of Cameroon except for "token" appointments. They allege further that the Respondent State manipulated demographic data to deny Southern Cameroonians equal representation in government. The Respondent State submitted that, upon the introduction of multipartyism in 1992, many Southern Cameroonian opposition parties, such as the

Social Democratic Front (SDF), have participated in municipal, legislative and presidential elections. ...

The Commission ... finds that ... Southern Cameroonians were representation (sic), and hence participated in public affairs of the Respondent State as required under Article 13 of the African Charter. The Complainants did not furnish the Commission with information or cases that individuals in the Southern Cameroons were denied representation or denied access to public services. The Commission ... concludes that there is no violation of Article 13.

Regarding the claim based on the right to education:

The Complainants allege that the Respondent State violated Article 17 [right to education] of the Charter, because it is destroying education in the Southern Cameroons by under-funding and under-staffing primary education. That it imposed inappropriate reform of secondary and technical education [in the Southern Cameroons]. ... The Respondent State denied that it is destroying the education system in the Southern Cameroons. ...

The Commission reiterates that for it to make finding on any allegations, the Parties have to provide it with the necessary information. ... The Complainants did not substantiate the allegations. For the above reasons, the African Commissions finds that there is no violation of Article 17(1) of the Charter.

Regarding the claim based on the right to equality of all peoples and to equal respect of all peoples:

The Complainants alleged [a violation of Article 19 – equality and equal respect of all peoples]. They alleged that the Respondent State, "forcefully and unlawfully annexed" Southern Cameroon. ... These are very serious allegations which go to the root of the statehood and sovereignty of the Republic of Cameroon....

Respondent State submits further that the Commission cannot examine or adjudicate on the 1961 UN plebiscite [or other pre-1989 events] because they predated the entry into force of the Charter. The Commission concedes that it is not competent to adjudicate on the legality of those events, due to limitation imposed on its jurisdiction *rationae temporis,* for reasons stated hereinabove. The Commission cannot make a finding on allegations made by the Complainants concerning "illegal and forced annexation, or colonial occupation of Southern Cameroon by the Respondent State," since they fall outside its jurisdiction *rationae temporis*.

The Commission states, however that, if the Complainants can establish that any violation committed before 18 December 1989, continued thereafter, then the Commission shall have competence to examine it. The Complainants alleged cases of economic marginalisation, and denial of basic infrastructure by the Respondent State, as constituting violations of Article 19. They allege that these violations were a consequence of the events of 1961 and 1972, and continued after 18 December

1989. ... The Respondent State did not ... respond specifically to the allegations concerning the relocation of major economic projects and enterprises from Southern Cameroons. It explained the reason for relocating the seaport to Douala from Limbe, otherwise known as Victoria. It argues that, Douala being the gateway into Cameroon, the government needed to monitor the movement of persons and good for evident security reasons and efficient customs control.

Every State has an obligation under international law to preserve the integrity of its entire territory. The maintenance of security and movements of persons and goods on the territory is part of that obligation. The argument by the Respondent State that it could not guarantee the security of persons and goods at Limbe, unless it moved the port, is tantamount to acknowledging that it had no control of Limbe. The Commission believes that the security and customs authorities could have effectively monitored the movement of persons and goods, even if the seaport had continued to be at Limbe. The Commission states that the relocation of business enterprises and location of economic projects to Francophone Cameroon, which generated negative effects on the economic life of Southern Cameroons constituted violation of Article 19 of the Charter.

Regarding the claim based on the right of a people to existence and to self-determination:

The Complainants state that the "alleged unlawful and forced annexation and colonial occupation" of Southern Cameroons by the Respondent State constituted a violation of Article 20 [right to existence and to self-determination] of the Charter. They claim that Southern Cameroonians are entitled to exercise the rights to self determination under Article 20 of the Charter as a separate and distinct people from the people of *"La Republique du Cameroun."* ... The Complainants submit that the UN plebiscite was premised on certain conditions, including the convening of a conference of equal representative delegations from the Republic of Cameroon and Southern Cameroons to work out the conditions for the transfer of sovereign powers to the future federation. It is further submitted that such arrangements should have been approved by the separate parliaments of the Republic of Cameroon and Southern Cameroons before sovereignty was transferred to a single entity representing both sides. The Complainants submit that the results of the plebiscite were never submitted to the parliament of the Southern Cameroons for approval.

The Respondent State did not respond to the allegations concerning "unlawful annexation and colonialism." It submitted instead that the issues are incapable of adjudication by the Commission on account of its lack of jurisdiction. The Respondent State contested further the claim that Southern Cameroonians are a "separate and distinct people". The Commission shall examine this issue.

The Complainants reiterate that their "separate and distinct" identity is based on the British administration over Southern Cameroons. They submit that they speak the English language, and apply the common law legal tradition, as opposed to the Francophone zone, where French is spoken and the civil law system is applicable.

The Respondent State submitted that it does not dispute the basic historical facts concerning the Trust administration, but denies that Southern Cameroonians exist as a "people." ...

The Commission shall clarify its understanding of "peoples' rights," under the African Charter. ... [T]here is recognition that certain objective features attributable to a collective of individuals, may warrant them to be considered as "people". A group of international law experts commissioned by UNESCO to reflect on the concept of "people" concluded that where a group of people manifest some of the following characteristics; a common historical tradition, a racial or ethnic identity, cultural homogeneity, linguistic unity, religious and ideological affinities, territorial connection, and a common economic life, it may be considered to be a "people.". Such a group may also identify itself as a people, by virtue of their consciousness that they are a people. ...

In the context of the African Charter, the notion of "people" is closely related to collective rights. Collective rights enumerated under Articles 19 to 24 of the Charter can be exercised by a people, bound together by their historical, traditional, racial, ethnic, cultural, linguistic, religious, ideological, geographical, economic identities and affinities, or other bonds. ... The Commission [is of the view] that peoples' rights are equally important as are individual rights. They deserve, and must be given protection. The minimum that can be said of peoples' rights is that, each member of the group carries with him/her the individual rights into the group, on top of what the group enjoys in its collectivity, i.e.; common rights which benefit the community such as the right to development, peace, security, a healthy environment, self determination, and the right to equitable share of their resources. ...

The Commission states that after thorough analysis of the arguments and literature, it finds that the people of the Southern Cameroons can legitimately claim to be a "people." Besides the individual rights due to Southern Cameroons, they have a distinct identity which attracts certain collective rights. ... Based on that reasoning, the Commission finds that "the people of Southern Cameroons" qualify to be referred to as a "people" because they manifest numerous characteristics and affinities, which include a common history, linguistic tradition, territorial connection, and political outlook. More importantly they identify themselves as a people with a separate and distinct identity. Identity is an innate characteristic within a people. It is up to other external people to recognise such existence, but not to deny it. ...

The Commission is aware that post colonial Africa has witnessed numerous cases of domination of one group of people over others, either on the basis of race, religion, or ethnicity, without such domination constituting colonialism in the classical sense. Civil wars and internal conflicts on the continent are testimony to that fact. It is incumbent on State Parties, therefore, whenever faced with allegations of the nature contained in the present communication, to address them rather than ignore them under the guise of sovereignty and territorial integrity. ...

The Commission shall address the question, whether the people of Southern Cameroons are entitled to the right to self determination. ... The Commission notes that the Republic of Cameroon is a party to the Constitutive Act (and was a state party to the OAU Charter). It is a party to the African Charter on Human and Peoples' Rights as well. The Commission is obliged to uphold the territorial integrity of the Respondent State. ... The Commission states that secession is not the sole avenue open to Southern Cameroonians to exercise the right to self determination. ... The Commission has however accepted that autonomy within a sovereign state, in the context of self government, confederacy, or federation ... can be exercised under the Charter. ...

The Complainants have submitted that the people of the Southern Cameroon are marginalised, oppressed, and discriminated against to such an extent that they demand to exert their right to self-determination. ... The Commission has so far found that the Respondent has violated Articles 2, 4, 5, 6, 7, 11, and 19 of the Charter. It is the view of the Commission, however that, in order for such violations to constitute the basis for the exercise of the right to self determination under the African Charter, they must meet the test set out in the Katanga case ... The Complainants' main complaint is that the people of Southern Cameroon are denied equal status in the determination of national issues. They allege that their constitutional demands have been ignored by the Respondent State. In other words they assert their right to exist and hence the right to determine their own political, and social economic affairs under Article 20(1).

The Commission is not convinced that the Respondent State violated Article 20 of the Charter. The Commission holds the view that when a Complainant seeks to invoke Article 20 of the African Charter, it must satisfy the Commission that the two conditions under Article 20(2), namely oppression and domination have been met. ... Going by the Katanga decision, the right to self determination cannot be exercised, in the absence of proof of massive violation of human rights under the Charter. ... The African Commission finds that the people of Southern Cameroon cannot engage in secession, except within the terms expressed hereinabove, since secession is not recognised as a variant of the right to self determination within the context of the African Charter. The Commission, however, finds also that the Respondent State violated various rights protected by the African Charter in respect of Southern Cameroonians. It urges the Respondent State to address the grievances expressed by the Southern Cameroonians. ... The Respondent State implicitly acknowledges the existence of this unwelcome state of affairs. It is evident that the 1995 Constitution did not address the Southern Cameroonians' demands, particularly since it did not accommodate the concerns expressed through the 1993 Buea Declaration and 1994 Bamenda Proclamation. ...

Regarding the claim based on the right of a people to freely dispose of their wealth and natural resources:

The Complainants allege violation of Article 21 [right of a people to freely dispose of their wealth and natural resources]. They did not bring any evidence to support their

allegation. In the absence of any such evidence, the Commission finds no violation against the Respondent State.

Regarding the claim based on the right to development:

The Complainants alleged cases of economic marginalisation, and lack of economic infrastructure. The lack of such resources, if proven would constitute violation of the right to development under Article 22. The Commission is cognisant of the fact that the realisation of the right to development is a big challenge to the Respondent State... The Commission does not a find a violation of Article 22.

Regarding the claim based on the right to peace and security:

The Complainants did not substantiate their allegations on the violation under Article 23(1) [right to peace and security]. The Commission therefore finds that there was no violation of article 23(1) of the Charter.

Regarding the claim based on the right to a general satisfactory environment favourable to development:

No evidence was brought to support the allegation that Article 24 [right to a general satisfactory environment favourable to development] has been violated. Consequently, the Commission finds no violation.

Regarding the claim based on the duty of the state to guarantee the independence of the courts:

The Complainants alleged violation of Article 26 [independence of the courts]. They submitted that the judiciary in the Respondent State is not independent. They allege that the Executive branch influences the judiciary through the appointments, promotions, or transfer policy. It is also alleged that the President of the Republic convenes and presides over the Higher Judicial Council.

The Respondent State avers that judicial independence is guaranteed by the Constitution. It states that Article 37 of the 1972 Constitution requires every institution and person, including the President to respect it. The State argues further that the Higher Judicial Council which is the appointing and disciplinary authority for magistrates does not necessarily require magistrates to pledge allegiance to the President. It concedes that the President of the Republic chairs the Higher Judicial Council, the Minister for Justice, is the Vice Chairperson, three members of Parliament, three members of the bench, and an independent personality.

The Commission states that the doctrine of separation of powers requires the three pillars of the state to exercise powers independently. The executive branch must be seen to be separate from the judiciary, and parliament. Likewise in order to guarantee its independence, the judiciary, must be seen to be independent from the executive and parliament. The admission by the Respondent State that the President

of the Republic and the Minister responsible for Justice are the Chairperson and Vice Chairperson of the Higher Judicial Council respectively is manifest proof that the judiciary is not independent.

The composition of the Higher Judicial Council by other members is not likely to provide the necessary "checks and balance" against the Chairperson, who happens to be the President of the Republic. The allegations by the Complainants in this regard are therefore substantiated. The Commission does not hesitate to find the Respondent State in violation of Article 26.

Regarding the claim based on the duty of a state party to recognize the rights in the Charter and to adopt measures to give effect to them:

The complainants did not mention Article 1 [state party to recognize rights in the Charter and to adopt measures to give effect to them] among the provisions of the African Charter alleged to have been violated by the respondent State. However, according to its well established jurisprudence, the African Commission holds that a violation of any other provision of the African Charter automatically constitutes a violation of Article 1 as it depicts a failure of the State Party concern to adopt adequate measures to give effect to the provisions of the African Charter. Thus, having found violations of several provisions in the above analysis, the African Commission also finds that the Respondent State violated Article 1.

For the above reasons, the African Commission finds on the one hand that the Republic of Cameroon has not violated Articles 12, 13, 17(1), 20, 21, 22, 23(1) and 24 [eight in all] of the Charter; but that on the other hand it has violated Articles 1, 2, 4, 5, 6, 7(1), 10, 11, 19 and 26 [ten in all] of the Charter.

The Commission's Recommendations

The African Commission therefore recommends as follows:

1. That the Respondent State:

(i) **Abolishes all discriminatory practices** against the people of the [Southern Cameroons], including equal usage of the English language in business transactions;
(ii) **Stops the transfer of accused persons** from the [the Southern Cameroons] for trial in [Republique du Cameroun];
(iii) **Ensures that every person facing criminal charges be tried under the language he/she understands.** In the alternative, the Respondent State must ensure that interpreters are employed in Courts to avoid jeopardising the rights of accused persons;
(iv) **Locates national projects, equitably** throughout the country, including [the Southern Cameroons], in accordance with economic viability as well as regional balance;

(v) **Pays compensation to companies** in [the Southern Cameroons], which suffered as a result of discriminatory treatment by banks;
(vi) **Enters into constructive dialogue** with the *Complainants*, and *in particular*, SCNC and SCAPO to resolve the *constitutional issues*, as well as *grievances* which could threaten national unity; and
(vii) **Reforms the Higher Judicial Council**, by ensuring that it is composed of personalities other than the President of the Republic, the Minister for Justice and other members of the Executive Branch.

2. That Complainants, and SCNC and SCAPO in particular:

(i) **Transform into political parties**; and
(ii) Abandon secessionism and **engage in constructive dialogue** with the Respondent State on the *Constitutional issues and grievances*.

The African Commission:

(i) places its good offices at the disposal of the parties to **mediate an amicable solution** and to ensure the effective implementation of the above recommendations; and
(ii) requests the **Parties to report on the implementation of the aforesaid recommendations within 180 days** of the adoption of this decision by the AU Assembly.

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Comment

Effective remedy

Under Article 1 of the African Charter Republique du Cameroun, the State party, assumes an obligation "to adopt legislative or other measures to give effect" to the rights enshrined in the Charter. To give effect includes providing effective remedy for violation of any rights in the Charter. The Commission having found Republique du Cameroun in violation of various provisions of the African Charter on Human and Peoples' Rights, that country is under international obligation to provide complainants with an effective remedy, failing which it will be in breach of international law and will engage its responsibility internationally.

"No violation" or "claim not proved"?

A claim is made by a complainant but no submission is made in respect of it, for example, as in respect of articles 9 and 10 in the present case. In such a situation the proper view of the African Commission, consistent with practice elsewhere, should have been that it "makes no finding" in respect of that claim. It is erroneous of the Commission to conclude that it "finds no violation" of the right in question. The Commission cannot come to that conclusion because it has no material and evidence on the basis of which it could possibly conclude that there has been no violation of the right in question. In situations of this nature the UN Human Rights Committee would conclude that "the material and evidence before it does not suffice to make a finding" in respect of the claim. The same is true of the practice of the Inter-American Human Rights Commission and the then European Human Rights Commission. In municipal law litigation the verdict in a situation of that nature would be charge/claim "dismissed" and not that the defendant is not guilty or not liable.

Similarly, where a claim is formulated under the relevant instrument but the matter is not argued (e.g. as the claim under article 3 in the present case) or where no supporting evidence is offered (as in the case of the claims formulated under articles 12, 13, 21, 22, 23, and 24) the proper finding the Commission should have recorded is "claim not proved", and not that "there is no violation of" the articles concerned. The fact that a claim is not substantiated does not necessarily mean no violation

took place. It is noteworthy that in almost all the cases in which no evidence was offered by Complainants to substantiate a particular claim formulated under the Charter the reason was simply that the nature of the required evidence was information in the possession of Respondent State and therefore inaccessible to Complainants. The African Commission was oblivious of this reality and took the untenable view that in every case the burden of proof lies entirely on Complainants. The jurisprudence of the UN Human Rights Committee is clear that the burden of proof cannot rest alone with the author of a communication, especially considering that the author and the State party do not always have equal access to the evidence and that frequently the State party alone has access to the relevant information.

Enforcement of decision

It would seem the African Commission on Human and Peoples' Rights is generally perceived as a body that lacks independence and impartiality, although of late the Commission appears to have become more assertive. Part of the reason for this perception is that some of the Commissioners have concurrently held and do concurrently hold ministerial, ambassadorial or other governmental position in their respective countries. This creates a conflict of interest situation because it is doubtful that an individual holding a position in government can at the same time truly act as an independent member of a body which is itself holding governments accountable for human rights abuses. The perception of partiality or politically motivated decisions is sufficient to throw the Commission's claimed independence and credibility into question. This is the more so as the Commission appears to fall under the Political Affairs portfolio of the African Union.

The Commission has power to take measures within the provisions of the Charter, but all such measures must remain confidential until such time as the AU Assembly shall otherwise decide. The Commission is required to make a report of its activities, but the report can only be published after it has been considered and approved by the AU Assembly. The chairperson of the Commission may publish the Commission's Annual Report, but only upon the decision of the AU Assembly.

The AU Assembly is entrusted with the responsibility of enforcing the recommendations of the Commission. But the Charter does not specify any course of action for the Assembly. Once the Commission reaches a decision on the merits and makes a recommendation to the Assembly, the Commission becomes *functus officio.* The Commission does not have power to enforce its decisions against delinquent States and it has no committee to follow up on the implementation of its recommendations. The AU Assembly itself cannot make binding decisions against delinquent States parties. All it can do is cause findings of human rights violations to be publicised in the hope that such exposure will shame the truant State into compliance with its obligations under the Charter. But few, if any, are the African leaders and governments that are 'shame-able'. What this means is that the Commission has no effective mechanism to enforce its decisions. States parties are only too aware of this. Many of them therefore ignore, with impunity, the findings

and recommendations of the Commission, an attitude that is not calculated to give credibility to that body and to the African Union itself.

Reliance on state voluntary self-compliance of decisions of treaty-monitoring bodies

The decisions of the UN and regional human rights treaty-implementing bodies on communications submitted to them are expressed in the form of 'findings' or 'views' or 'opinions'. This phraseology poses problems of effectiveness and enforcement. Decisions cast in this form are of a non-binding character. Even if they were to be expressed as 'rulings' or 'decisions' or 'orders' or 'judgments', which would be futile, they would still be difficult to enforce because there is no international 'Sheriff' or police force to do so.

Given this reality, international human rights law places heavy reliance on voluntary self-compliance by States as an incidence of the general treaty obligations of states parties to perform the treaty in good faith. Apart from voluntary self-compliance, however, interested states and concerned international organizations may be prepared to exert moral or other forms of influence on the wayward State to comply. If the defaulting State still fails to comply, other enforcement devices may, conceivably, be resorted to. These include persuasion, public exposure or the 'mobilization of shame', public criticism, public condemnation and adverse media publicity, some form of sanctions such as the imposition of trade or diplomatic embargo or travel ban or asset freeze, and, in an extreme case, collective use of force, or suspension or expulsion from the international organisation.

Colonial occupation of the Southern Cameroons

In its Memorial in Communication 266 complainants asserted and demonstrated that the Southern Cameroons has been annexed by Republique du Cameroun and remains under the colonial occupation of that country. The Commission rightly characterised this development as very serious. Indeed it is, and the people of the Southern Cameroons do not make the charge of colonial occupation lightly. First, the occupying State does not deny that it is in complete and asphyxiating control of the Southern Cameroons and administering the territory following its inherited French system. Over the years it has been fishing for some possible justification of its seizure of that territory. In the 1960s it argued that it simply took over a hitherto separated part of its territory handed over to it by the UN and Britain. When challenged to produce the instrument by which the UN and Britain allegedly ceded the Southern Cameroons to it (a legal impossibility since neither the UN nor Britain were owners of the territory), Republique du Cameroun changed its story. It claimed that its occupation of the Southern Cameroons is by virtue of what it called "reunification on 1st October 1961 following the plebiscite vote on 11 February 1961". But when it was pointed out that one cannot credibly talk of so-called 'reunification' when the Southern Cameroons was never, in the first place, a part of French Cameroun, and when at the plebiscite there was no such option as 'reunification' and there could not have been any, Republique du Cameroun then changed once more the basis of its hopeless claim. It then sought to found its claim

on a brief and ill-defined German Kamerun entity and then proclaimed itself the state successor to that entity. But German Kamerun (parts of which are now legally within at least five different countries) lasted only some 25-odd years and was long since extinct. Besides, the political existence of Republique du Cameroun dates not from 1884 but from the inception of French colonial rule in 1916.

Further, it is both a legal and a factual impossibility for a country to succeed at independence not to the territory of the immediate predecessor state but to the territory long extinct of a remote predecessor state. Furthermore, the plebiscite itself was a complete refutation of the lie that the Southern Cameroons is a part of Republique du Cameroun. If the Southern Cameroons were a part of that country the plebiscite would have been redundant and the territory simply handed over to Republique du Cameroun like Ifni handed over to Morocco by Spain, Hong Kong to China by Britain and Walvis Bay to Namibia by South Africa. Claim to territory can never be founded on mere geographical contiguity or on a remote, superficial and ephemeral historical connection. That is why the claim of Spain to Gibraltar and the claim of Argentina to the Falkland Islands have never succeeded. The plebiscite in the Southern Cameroons was a clear and loud statement by the international community that the native inhabitants of the Southern Cameroons constitute a people and therefore have the inalienable and continuing right to self-determination.

Let the record be put straight. At the plebiscite the people of the Southern Cameroons voted first and foremost to achieve independence (the effective date of which was set by the UN to be 1st October 1961) and, as a secondary matter, to form a political association with Republique du Cameroun under certain terms and conditions. At the plebiscite there was therefore no such thing as a so-called 'vote for reunification'. There could have been no such vote because there was no such alternative. Nor was there any so-called 'reunification' on 1st October 1961. That date was billed as the date on which UN trusteeship over the Southern Cameroons was to end, resulting in independence for the territory; it was also the date on which there was to come into existence an agreed federal form of political association between the Southern Cameroons state and Republique du Cameroun, duly underpinned by an Act of Union subscribed to by both parties.

But before that date Republique du Cameroun had illegally assumed jurisdiction over the Southern Cameroons by performing acts of sovereignty in the territory, while the British conspiratorially looked the other way. On 1st September 1961 Republique du Cameroun passed in its parliament an annexation law (in the form of a constitutional amendment law deceptively denoted as a 'federal constitution') by which it formally claimed the Southern Cameroons as part of its territory and asserted jurisdiction over it. In that same month Republique du Cameroun's French-led troops marched into the Southern Cameroons and immediately announced their presence and demonstrated their trigger-happy nature by murdering six citizens in cold blood, again while the British looked the other way.

1st October 1961 witnessed the formal ending of UN trusteeship over the Southern Cameroons. But the independence which the people had voted for and whose

effective date the UN had set for 1st October 1961 remains paper independence to this day because its enjoyment was immediately suppressed by Republique du Cameroun in two very significant ways. Republique du Cameroun sent its troops into the Southern Cameroons, with the result that it remains an occupied territory to this day. Then, after the British Commissioner of the Southern Cameroons departed on 1st October 1961 Republique du Cameroun immediately appointed one of its citizens to the Southern Cameroons as the new colonial governor, stepping into the shoes of the departed British Commissioner. The new and French-speaking colonial officer was euphemistically styled *'inspecteur d' administration'*, a denomination later changed to that of '*governeur de province/region'*. Thus, the so-called 'reunification' much trumpeted by Republique du Cameroun is a mere myth and at best a Nazi-type 'reunification' of Alsace Lorraine and then Austria, with the Third Reich.

In the 1970s, believing it had achieved its colonial goal of complete assimilation of the people of the Southern Cameroons and total destruction of their identity, and in order to have unhindered access to the wealth and natural resources of the Southern Cameroons, Republique du Cameroun contrived to manufacture another 'reunification' which it called 'unification', a stage in its imperial agenda admitting of no diversity, no multiculturalism, no multi-nationalism, within its colonial set-up: the Southern Cameroons had to be completely extinguished, its people destroyed as a distinct and separate people and then sunk wholesale into the French world of Republique du Cameroun. But Republique du Cameroun did not reckon with the innate human yearning for freedom, the innate human nature and ability to resist oppression and domination, the innate individual and collective human instinct for survival, and the resilience of the people of the Southern Cameroons in the face of great national adversity and peril.

Now that its colonial occupation of the Southern Cameroons has been thoroughly exposed Republique du Cameroun claims to have been able to find a new basis for its tragic colonial adventure in the Southern Cameroons. It now makes the dishonest and infantile claim that the ICJ ruling in the '*Bakassi case*' confirms that the Southern Cameroons is part of the territory of Republique du Cameroun and that the ruling acknowledges Republique du Cameroun's sovereignty over the Southern Cameroons. But this is more of wishful thinking than what the ICJ decided in that case. The ICJ could not have decided those points for the simple reason that those matters were never pleaded before the Court. It is elementary that a court of law does not adjudicate on matters not put before it and argued by the parties. Sovereignty over the Southern Cameroons and the boundaries of the Southern Cameroons were not issues before the Court. Therefore, the Court cannot possibly be taken to have decided those issues. In any event, the ICJ is not a territorial sovereign; it does not have territory with which to assuage the colonial cravings of expansionist states. In 1961 Republique du Cameroun had tried to lay the foundation for its expansionism by claiming in the *Northern Cameroons case* that it had an interest in a so-called "reunification of all the people of Cameroun." Republique du Cameroun had already set its eyes on annexing the Southern Cameroons. Its next step was to grab the Northern Cameroons via the ICJ. Had it succeeded it would have moved on to lay claim to parts of Gabon, Congo, Central African Republic and Chad on the basis that

the pieces of territory in question formed part of German Kamerun. Fortunately, the ICJ at the time quickly saw through this imperial agenda and non-suited Republique du Cameroun which promptly declared what turned out to be an ephemeral day of crocodile tears.

The evidence of annexation and colonial occupation of the Southern Cameroons is therefore overwhelming; and every citizen of the Southern Cameroons is a colonized being however much those co-opted into the administration of the colonialist (a typical French colonial practice) might pretend. But there is further evidence of colonialism which tallies with the findings of a study (2009) by the Middle East Project of the HSRC entitled 'Occupation, Colonialism, Apartheid: A Re-assessment of Israel's practices in the Occupied Palestinian Territories under International Law.' "The terms of the Declaration on [the Granting of Independence to Colonial Peoples and Territories]," the study affirms, "indicate that a situation may be classified as colonial when the acts of a State have the cumulative outcome that it annexes or otherwise unlawfully retains control over territory and thus aims permanently to deny its indigenous population the exercise of its right to self-determination."

First, the indigenous population of the Southern Cameroons have no control over their territory, the territorial integrity of which has been violated by Republique du Cameroun by the fact of occupation of the Southern Cameroons and the partitioning of the Southern Cameroons into provinces/regions tagged to contiguous Cameroun Republic areas. This violates the UN Declaration on the Granting of Independence.

Secondly, the people of the Southern Cameroons hitherto self-governing under British colonial rule have since been deprived of the capacity for self-governance. Republique du Cameroun exercises total civil and military administration of the Southern Cameroons through a hierarchy of Republique du Cameroun officials. Unlike under British colonial rule, there is now no Southern Cameroons parliament, no Southern Cameroons government, no Southern Cameroons judiciary, no Southern Cameroons administration, no Southern Cameroons public service, and no Southern Cameroons police service. Republique du Cameroun retains full and total control over the territory. The people of the Southern Cameroons cannot freely determine their political status. They cannot freely pursue their economic and social development according to the policy they should freely choose. They cannot exercise the right to their economic, social and cultural development. The enjoyment of the independence voted for at the plebiscite in 1961 has been suppressed by Republique du Cameroun, thereby violating the right of the people of the Southern Cameroons to self-determination. Republique du Cameroun is seeking permanently to deny the people of the Southern Cameroons the exercise of their inalienable and continuing right to self-determination.

Thirdly, whereas international law ordains that the territory and economy of a colonial territory must remain separate and distinct from that of the colonising power, Republique du Cameroun has completely subordinated and subsumed the territory and economy of the Southern Cameroons to its own, in fact fused the economy of the Southern Cameroons into its own so that structurally there is no

longer any distinction between the two, with the result that the people of the Southern Cameroons have been totally deprived of the capacity to govern and order their economic affairs. Their right to economic self-determination has thus been suppressed.

Fourth, Republique du Cameroun is in breach of the principle of permanent sovereignty over natural resources in relation to the Southern Cameroons. The right of permanent sovereignty over natural resources entitles a people to freely dispose of their wealth and natural resources and in no case shall they be deprived of it. Oil, timber, gas, mineral and cash crop resources are taken from the Southern Cameroons for the exclusive development of Republique du Cameroun. The Southern Cameroons has changed little in the past 50 years: The existing few kilometres of tarred roads are the typical colonial 'extractive routes' meant to facilitate the evacuation of natural resources and food commodities from the Southern Cameroons to Republique du Cameroun. Most parts of the Southern Cameroons are unreachable throughout the year and head load over long distances is still very common. Water, electricity and health facilities remain rare amenities. Infrastructural development is virtually absent. The enjoyment of second, like first, generation human rights remain a pipe dream.

Fifthly, Republique du Cameroun has denied the people of the Southern Cameroons the right freely to express, develop and practice their culture. The practices of Republique du Cameroun privilege the French language, the French legal system, the French administrative system, the French educational system and the French-based cultural referents of Republique du Cameroun, while materially and purposefully hampering the Anglo-American-based cultural development and expression of the people of the Southern Cameroons.

Clearly, the implementation by Republique du Cameroun of its colonial policy has been systematic and comprehensive. The exercise by the people of the Southern Cameroons of their right to self-determination has been frustrated in all its principal modes of expression. Living in complete denial even in the face of compelling evidence, Republique du Cameroun argues lamely that Africa is now free and therefore the Southern Cameroons is not under colonial occupation. But that is like arguing that there is now no slavery in the world because slavery was abolished a long time ago. Colonialism is colour-blind. It is no less reprehensible because it is perpetrated by one of our kind. No one has ever argued that Americans and the Irish were never colonised by the British because they are all whites (and even with a substantial cultural and blood relations). German occupation of France was rejected as was Japanese occupation of China.

Colonisation is slavery, a form of terrorism and a threat to international peace and security. Article 20 of the African Charter emphatically rejects it and the AU in the preamble to that Charter strongly denounces it. The existence of colonialism in any form or manifestation, including economic exploitation, is thus incompatible with the African Charter on Human and Peoples' Rights. It is also incompatible with the United Nations Charter, the United Nations Declaration on Decolonisation and the

Universal Declaration of Human Rights. The African Commission on Human and Peoples' Rights is duty bound to affirm its support for the aspirations of the people of the Southern Cameroons, under Republique du Cameroun's colonial rule, to exercise their right to self-determination, including independence. If there is any doubt about this aspiration let an independence referendum, internationally supervised and monitored, be held in the Southern Cameroons. That is an internationally recognised peaceful method of resolving an issue of this nature and for which there are many precedents.

People

It has always been self-evident even to the blind that the indigenous population of the Southern Cameroons constitute a people separate and distinct from the people of Republique du Cameroun. But true to its logic of destroying us as a people with every right to existence, the colonial occupier keeps repeating *ad nauseum* that we are "a small linguistic tribal minority" in Republique du Cameroun, not different from minority groups in that country. And this, in spite of the fact that the self-determination plebiscite in the Southern Cameroons was the clearest proof that under international law we constitute a people. A self-determination plebiscite is resorted to by the UN when it is satisfied that the dependent population concerned constitute a people within the meaning of international law. There is also UN Resolution 1608 of 12 April 1961 in which the General Assembly of the UN expressly and advisedly refers to us as a people. With the recent ruling by the African Human Rights Commission in Communication 266/2003 any lingering doubt on this matter has been put beyond question. This point must now be regarded as definitively settled.

One of the foremost implications of the jurisprudence that the indigenous populations of the Southern Cameroons are a people is that they necessarily have a territory and are free to name it as they see fit. There cannot be a people without a territorial link. A people must necessary have a homeland. When the Jews, dispersed as they were all over Europe and America, were recognized as constituting a people the international community had to find a homeland for them. The Jews were settled in part of the British mandated territory of Palestine. They named the area Israel and proclaimed their independence. The populations of the Southern Cameroons are native to the territory they occupy and which the British colonial authorities named as 'the Southern Cameroons'. It is up to the people to rename that homeland when and by whatever name they chose to, before or on the day of independence.

Other implications are that the people of the Southern Cameroons, *qua* people, have the right to:

(i) Self-determination (i.e. the right to freely determine their political status, and the right to freely pursue their economic and social development according to the policy they have chosen);
(ii) Existence (the only adequate guarantee of which is sovereign statehood);
(iii) Equality with all other people;
(iv) Enjoy the same respect as all other people;

(v) Have the same rights as all other people (including the right to be free);
(vi) Freedom from domination by another people;
(vii) Free themselves from the bonds of domination by resorting to any means recognised by the international community (i.e. right to resist colonial rule);
(viii) Assistance from States Parties to the African Charter in their liberation struggle against Republique du Cameroun domination;
(ix) National and international peace and security;
(x) Cultural development;
(xi) General satisfactory environment favourable to their development;
(xii) Freely dispose of their wealth and natural resources;
(xiii) Lawful recovery of property and to an adequate compensation in case of spoliation.

Self-determination involves the all-important issues of survival, identity and dignity.

Puzzle

Of all the tribal groups in Republique du Cameroun the Bamileke are the chief opponents of our liberation in the hopeless belief that we can continue to be held captive in their country. This is something of a puzzle. We sheltered people from virtually all the ethnic groups in Republique du Cameroun fleeing bloody French repression and exactions: Bamileke, Ewondo, Bulu, Duala, Bassa, Bafia, and some '*nordistes*'. People from these various tribes in Republique du Cameroun did not flee to neighbouring French-speaking countries for reasons they know only too well. They chose to come to us and out of our generosity we welcomed them and settled them among us in a spirit of African brotherhood and solidarity. This is the pay we get from them, especially the Bamileke who constituted the largest group of refugees. Could they have forgotten so easily? Even today, our African French-speaking friends opt for the world of the very Anglo-Saxons they and their French Masters lampoon so often: Australia, Britain, Canada, Ireland, Nigeria, South Africa, and the United States of America. France (or any French-speaking African country for that matter) is not a preferred destination. Those who succeed in making the treacherous Mediterranean crossing to France use that country merely as a transit point to other destinations of preference. It is further puzzling why these people should vote with their feet by going to English-speaking countries and yet instinctively reject the very value systems, the very mindset, the very culture and the very governance model that make those countries so attractive and so inviting.

The basic 'argument' of the opponents of our freedom is that they too suffer from the same evil we decry; an evil, they say, visited upon everyone by what they themselves admit is a satanic regime; replace that regime with a 'good' one, they maintain, and we shall all be happy ever after. That is a fat lie. The difference between our cause and their case is so patent that even an intellectually weak person can see it. We are a separate and distinct people and country fighting against brutal colonial occupation by a neighbouring country, their country. The only remedy

for our forlorn land and condition of captivity is decolonisation, freedom. The coloniser must pack and go! The Bamileke, Bassa, Ewondo, Bulu etc are ethnic groups within Republique du Cameroun. The remedy for their malady in their country lies in good governance, rule of law, and free and fair elections. How they face up to that challenge is their cup of tea not ours, and attempts to enlist our involvement in it in the name of a sorry and content-less brotherhood must be puerile. In a sense their task has been made a lot more easy thanks to the various cases we have instituted against their country's regime as a result of which that regime has time and again been found guilty of gross human rights abuses, including torture and other inhuman treatment, arbitrary arrest and detention, and extra-judicial killings. The judiciary in that country has also been found to be a dependent judiciary completely under the boot of the country's ruler. For us, a new regime that comes to power in that country, even if it is an angelic regime, will not make us discontinue the fight for our manumission so long as that country continues to hold us in terror and captivity.

Faith

We only seek to close the path of misery and the chapter of captivity in Republique du Cameroun and so save ourselves from the depths of hell that that country is. Why can't they let us be? The fact that we should be held captive and are fighting for freedom is the clearest proof that we are under alien domination and oppression. That the Southern Cameroons should be fighting for the past half century to throw off brutal annexation by Republique du Cameroun speaks volumes upon volumes about the nature and character of that country as well as the lived wretched human condition there.

There is great justice in our cause. We are very confident of our freedom, and are even prepared for the long haul. We are so full of faith that we regard our supplication for liberty already granted by God. Our confidence tells us not to concede even a measly centimetre to the demons of doubt. Glory, Glory Alleluia! The truth is marching on. Freedom is marching on. The devil is vanquished.

Professor C Anyangwe

1 February 2010