



SE Monsieur Amadou Ali
Minister of Justice
Ministere de la Justice
1000 Yaounde
Republique du Cameroun

16th April 2003

Dear Monsieur Amadou Ali,

I am writing on behalf of the Bar Human Rights Committee of England and Wales.

The Bar Human Rights Committee is the international human rights arm of the Bar of England and Wales. It is an independent body primarily concerned with the protection of the rights of advocates and judges around the world. It is also concerned with defending the rule of law and internationally recognised legal standards relating to the right to a fair trial.

I am now writing in respect of the forthcoming hearing of three cases before the Cameroon Courts. The first is that of Musa Ndamba due to be heard at Fundong, Boyo Division, North West Province on 23rd April 2003. The second is the hearing of a torture complaint against a Gendarme Commander which we understand is to take place on 24th April 2003 at the Bamenda Military Tribunal and the third is the appeal hearing of Ousman Haman, Adamou Issa, Yunusa Mbangoji and Yaouba Umaru filed on 6th March 2003 but in respect of which a hearing date has yet to be set.

These cases have been brought to our attention by a number of Non-Governmental Organisations with expertise in the region. The NGOs believe that these cases raise serious human rights issues and give rise to serious concern at the availability of fair and effective remedies in Cameroon and the operation of the rule of law. It is in connection with these concerns that I am now writing to you. I shall detail the major points of concern below and would be very grateful for your comments on them:

1. Adequacy of investigation into allegations of torture:

As you will be aware one of the individuals concerned – Ousman Haman – has alleged that while in custody in April 2002 he was the victim of torture. He contends that he was beaten with a cane on the soles of his feet some 150 times and that he was flogged by gendarmes. We understand that Mr Haman has brought proceedings against the relevant Gendarme Commander – Captain Fotsing Benjamin and that a hearing in respect of these allegations is due to take place on 24th April 2003 at the Bamenda Military Tribunal. We would be grateful if you could provide the following information in respect of these matters:

- a. What procedure exists in Cameroon for suspension of an officer faced with allegations of this nature?

- b. Whether any internal enquiry was undertaken in connection with these allegations;
- c. Whether any independent criminal investigation was undertaken in respect of these allegations;
- d. The composition of the tribunal before which these complaints will be raised and the range of sanctions available to it;

2. Independence of tribunals / fairness of process:

We understand that Ousman Haman, Yaouba Umaru, Adamu Isa and Yunusa Mbagoji have each been sentenced to 10 years imprisonment and a fine of approximately US\$2,500 each by the Military Court of Bafoussam in the West Province of Cameroon. We would be grateful for the following information in respect of this:

- a. The basis upon which these individuals (all of whom are, we understand, civilians) were tried before a Military Tribunal. As you will be aware the United Nations Human Rights Committee has expressly called for the removal of military jurisdiction over civilians;
- b. What guarantees are in place to ensure that the Military Court complied with the fair trial guarantees contained in Article 14 of the International Covenant on Civil and Political Rights and Article 7 of the African Charter;
- c. How the judges on the Military Court are appointed, what level of security of tenure is possessed by them and whether they fall under the jurisdiction of the Ministry of Justice;
- d. What levels of legal expertise are possessed by each member of the Military Court? As you will be aware in a case concerned with Nigeria the African Commission of Human Rights found a violation of Article 7(1)(d) of the African Charter where a special tribunal was set up and where the judges were persons without legal expertise and belonging to the executive branch of the government, (see *Constitutional Rights Project (in respect of Wahan Akamu, G. Adegan and others) v Nigeria* (60.91), 8th Annual Activity Report of the African Commission on Human and People's Rights 1994-1995);
- e. The basis upon which the punishments imposed can be said to be proportionate. As you will be aware all punishments imposed upon conviction following a fair trial must be proportionate to the gravity of the crime and the circumstances of the offender, (Report of the 8th UN Congress on the Prevention of Crime and Treatment of Offenders, UN Doc. A/Conf. 144/28, rev. 1 (91.IV.2), Res. 1(a), 5(c), 1990);

- f. Whether the sentences imposed took into account the periods for which the defendants were held on remand or whether credit for such periods will be given;

We also understand that the case of Mr Ndamba is of particular political sensitivity given his status as the Provincial President of MBOSCUDA and we would be grateful for your comments on the following aspects of his case:

- a. The nature of the offence with which Mr Ndamba has been charged;
- b. Whether individuals charged with such an offence are normally granted bail and what criteria are applied to the refusal of bail;
- c. The allegation that his bail was withdrawn as a result of "orders from above". It has been reported that this was the explanation given by the State Counsel with conduct of the case;
- d. The allegation that State Counsel in the case has claimed that his job is at risk as a result of the political sensitivity of the case. As you will appreciate concerned as our Committee is with the independence of lawyers and the rule of law this is an allegation of particular importance from our perspective.

Our Committee is obviously keen to ascertain the full facts in relation to each of these cases before determining what stance it will take in respect of them and we would, accordingly, be very grateful for your full response to the points we have raised at the first opportunity.

Yours sincerely,

Peter Carter QC
Chairman