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الاتحاد الأفريقي <i>African Commission on Human & Peoples' Rights</i>		UNIÃO AFRICANA <i>Commission Africaine des Droits de l'Homme & des Peuples</i>
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Communication 650/17

**Kum Bezeng and 75 Others (represented by Professor
Carlson Anyangwe)**

v

The Republic of Cameroon

*Adopted by the
African Commission on Human and Peoples' Rights
during the 21st Extra-Ordinary Session, from the 23 February to 4 March 2017
Banjul, The Gambia*

F. Tlakula

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Commissioner Faith Pansy Tlakula
Chairperson of the African Commission
on Human and Peoples' Rights



M. Maboreke

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Dr. Mary Maboreke
Secretary to the African Commission on
Human and Peoples' Rights

Decision of the African Commission on Human and Peoples' Rights on Seizure and Provisional Measures.

Communication 650/17 Kum Bezeng and 75 Others (represented by Professor Carlson Anyangwe) v The Republic of Cameroon

Summary of the Complaint:

1. The Secretariat of the African Commission on Human and Peoples' Rights (the Secretariat) received a Complaint on **20 February 2017** from KUM Bezeng and 75 Others (the Complainants), (*on behalf of themselves and of the People of the former UN Trust Territory of the Southern Cameroons under the United Kingdom Administration*), represented by Professor Carlson Anyangwe.
2. The Complaint is submitted against the Republic of Cameroon (the Respondent State), a State Party to the African Charter on Human and Peoples' Rights (the African Charter), the Republic of Cameroon having ratified the African Charter on 20 June 1989.
3. The Complainants in their complaint state that the territory referred to in this present communication as "**the Southern Cameroons**", is the southern part of the British Mandated/Trusteeship Territory of British Cameroons in West Africa. They traced its historical background and evolution from 1916 to the end of World War I and under the terms of the Treaty of Versailles, 1919, to when the Southern Cameroons was administered by the British, under the League of Nations and the United Nations (UN) as a Mandate and Trust Territory respectively, to 1961, when, the Complainants allege, Southern Cameroons' sovereignty was transferred in a pseudo-independent move to the already independent former French Cameroun (*la République du Cameroun*) by the British.
4. The Complainants also traced the evolution of Southern Cameroons from 1961, when the territory joined the already independent la République du Cameroun, to form the **Federal Republic of Cameroon**, to 1972, when the Federal Republic of Cameroon changed into the **United Republic of Cameroon**, and to 1984, when once again, the name changed back to the Republic of Cameroun (*la République du Cameroun*)
5. The Complainants state that after World War 1, the territory known as Kamerun, formerly a German possession, was seized and split into British Cameroons (smaller part), and French Cameroun (larger part, which included the *Neue Kamerun* and the *Duckbill*, both subsequently excised by France and incorporated into what are now Chad, Central African Republic, Congo Brazzaville and Gabon).
6. The Complainants state that this territorial division was confirmed by the Milne-Simon Declaration of 10 July 1919, and further in 1922 and 9 January 1931, by the League of Nations, which granted Britain a mandate over the British Cameroons, and France a mandate over French Cameroun. The Complainants add that in 1946, the UN once again confirmed this territorial division in the Trusteeship Agreement relative to the **British Cameroons** and the one relative to French Cameroun.



7. The Complainants state that Britain administered the Southern Cameroons through the British Resident with headquarters in Buea, in the Southern Cameroons territory, as though it formed an integral part of Nigeria, but not joined to the British territory of Nigeria.
8. The Complainants state on 1 January 1960 French Cameroun gained independence under the name and style of la République du Cameroun and on 1 October 1960 Nigeria gained independence as the Federal Republic of Nigeria, while the question of independence for the Southern Cameroons remained unresolved.
9. The Complainants submit that the decolonisation woes of the Southern Cameroons began in 1959, when the UN stamped the Trust Territory into a plebiscite with two dead-end alternatives. By UN General Assembly resolution 1352 (XIV) of 16 October 1959, the UN decided that a plebiscite must be held in the Territory. The Complainants allege that notwithstanding strong objections by the political leadership of the Territory, the plebiscite took place on 11 February 1961, with the people of the trust territory given only two choices to choose between: to achieve independence by 'joining' Nigeria or to achieve independence by 'joining' former French Cameroun. The third option of achieving independence as a separate state was left out as it was vehemently opposed by the UK Government.
10. The Complainants also submit that between 1959 and 1960, French Cameroun publicly gave the UN and the people of the Southern Cameroons two critical assurances: that it was ready to associate with the Southern Cameroons in a federation of two states, equal in status; and that it was not annexationist and would not colonize the Southern Cameroons. These assurances influenced the plebiscite vote in favour of political association with former French Cameroun rather than with Nigeria.
11. The Complainants aver that on 21 April 1961, the UN General Assembly adopted Resolution 1608 (XV) by which it endorsed the decision of the people of the Southern Cameroons to achieve independence. The General Assembly then set 1 October 1961 as the effective date of achievement of that independence. It also set the same 1 October 1961, as the date of termination of trusteeship; and of political association between the Southern Cameroons and former French Cameroun in a two-state federation
12. The Complainants allege that, on 1 Sept 1961 former French Cameroun cunningly amended its constitution of 4 March 1960, renaming it the "Constitution of the Federal Republic of Cameroun". The amendment involved the annexation of the Southern Cameroons and had the effect of extinguishing the Southern Cameroons political status as a self-governing territory schedule to achieve independence on 1 October 1961. In the same month of September 1961, the French-led troops of former French Cameroun violated the territorial integrity of the Southern Cameroons and committed acts of murder.
13. The Complainants state that on 30th September 1961, the UK Administering Authority of the Southern Cameroons invited a foreign leader, the President of former French Cameroun, to the Southern Cameroons and, as the British Government herself has since



admitted “transferred sovereignty over the Southern Cameroons to the Republic of Cameroun”. The effect of that transfer was that the Southern Cameroons once again found herself under foreign rule: re-colonization rather than decolonization was the result, with the Southern Cameroons moving from rule by the UK to rule by la République du Cameroun, successor colonialist. What has thus been dubbed as the “**Anglophone Problem**” is actually a problem of decolonization from a black-on-black colonization.

14. The Complainants also allege that on 20 May 1972, the Yaoundé government of la République du Cameroun staged a so-called referendum in which the majority French speakers approved a highly centralized constitution and the federal state was replaced with a unitary state denoted as “United Republic of Cameroon”. Southern Cameroons’ autonomous status, liberal constitution, institutions, governance structures and state culture were overnight decreed out of existence. The territory was split into two, thenceforth designated as Cameroun Northwest and Southwest Provinces. The people of the Southern Cameroons vehemently denounced their experience and common suffering as annexation and colonization *de novo*, and many Pro-independence groups, such as the Cameroon Anglophone Movement (CAM), the Southern Cameroons National Council (SNCN), the Southern Cameroons Youth League (SCYL), Ambazonia, Free West Cameroon, and the Southern Cameroons Peoples’ Organization etc. soon emerged, challenging the new dispensation and struggling for independence. They decried, inter alia, the subjugation of the people of the Southern Cameroons.
15. The Complainants submit that the Pro-independence groups point to the non-implementation of UN Resolution 1608 (XV) of 21 April 1961, which required the Government of the United Kingdom, the Government of the Southern Cameroons and the Government of the Republic of Cameroun to engage in talks with a view to finalize and implement before 1 October 1961, the agreed measures for political association of the Southern Cameroons and former French Cameroun; and violation by the UK Government of the binding UN General Assembly Resolution 1514 (XV) of 14 December 1960. The violation of this instrument consisted in the fact that before leaving the Southern Cameroons on 30 September 1961, Britain handed sovereignty over the Southern Cameroons, **NOT** to the elected Government of the Southern Cameroons as required by international law but to a foreign country: former French Cameroun.
16. The Complainants contend that the amendment on 1 September 1961 of its constitution of 4 March 1960, was a subterfuge that involved the annexation of the Southern Cameroons, as further evidenced by the following official line of the Yaoundé regime which maintains that former French Cameroun became:
 - *la République du Cameroun* on 1 January 1960,
 - then transmuted into *la République Fédérale du Cameroun* on 1 September 1961,
 - then metamorphosed to *la République Unie du Cameroun* on 2 June 1972, and
 - then summersaulted back to *la République du Cameroun* in January/February 1984.
17. The Complainants state that going forward, representatives of the Southern Cameroons activists’ groups convened two “All Anglophone Conferences” (AAC1 and AAC2) in Buea in April 1993, and Bamenda in 1994 respectively. These Conferences issued the “Buea



Declaration", which called for constitutional revision to restore the 1961 federation agreed upon in writing between the Southern Cameroons and former French Cameroun, and the *"Bamenda Proclamation"*, which stated that if the federal state was not restored within a reasonable time, the Southern Cameroons would assert its independence and take necessary measures to protect its territorial integrity and safeguard its people.

18. The Complainants submit that the AAC was renamed the Southern Cameroons Peoples Conference (SCPC) with the (SCNC) as the executive governing body. Later in 1995, there emerged the Southern Cameroons Peoples Organization (SCAPO) and the Southern Cameroons Youth League (SCYL).
19. The Complainants also submit that in furtherance of their independence objectives for the Southern Cameroons, the SCNC sent a delegation, led by John Ngu Foncha, former Prime Minister of the Southern Cameroons and former Vice President of the Federal Republic of Cameroon, to the UN. The delegation was received on 1 June 1995. It presented a petition against the annexation and colonization of the Southern Cameroons by Republic of Cameroun. This was followed by a signature referendum the same year, which produced a 99% vote for independence with 315,000 people voting, a voting-electorate turnout far higher than at any electoral consultation in the Southern Cameroons.
20. The Complainants submit that the territory of the Southern Cameroons has an estimated population of about 7 million inhabitants and a land size of 43,000 sq. km. It is well endowed with natural resources including: oil, gas, iron, gold, diamonds, bauxite, salt, timber, medicinal plants, rare species of fauna and flora, food crops of a wide variety, and agricultural export crops such as rubber, banana, tea, oil palm and coffee. Forming an integral part of the territory is the much-talked-about Bakassi Peninsula with its large and varied fish stocks and huge oil and gas reserves

A previous related complaint before the African Commission: *Gumne et al. v Cameroun*

21. The Complainants made referenced to a previous complaint before the African Commission on Human and Peoples' Rights (the Commission), filed on 9 January 2003, by the SCNC and SCAPO, against former French Cameroun (*Gumne et al. v Cameroun*), wherein SCNC and SCAPO alleged that former French Cameroun is illegally occupying the territory of the Southern Cameroons, the frontiers of which are firmly secured by the treaties mentioned above.
22. The Complainants submit that in that Communication, the Complainants alleged the violation by former French Cameroon of Articles 2, 3, 4, 5, 6, 7(1), 9, 10, 11, 12, 13, 17(1), 19, 20, 21, 22, 23(1), and 24 of the African Charter and ultimately sought the independence of the territory of the Southern Cameroons.
23. The Complainants submit further that in its decision reached at its 45th Ordinary Session on 27 May 2009, the Commission found that the Republic of Cameroun has violated Articles 1, 2, 4, 5, 6, 7 (1), 10, 11, 19 and 26 the Charter. The Commission determined that Articles 12, 13, 17 (1), 20, 21, 22, 23 (1) and 24 have not been violated.



24. The Complainants submit that the Commission recommended that the Respondent State should among other things enter into constructive dialogue with the Complainants, and in particular SCNC and SCAPO, to resolve the constitutional issues, as well as grievances.
25. The Complainants allege that since this decision of the Commission, no attempt has been made by the government of the Republic of Cameroun to engage in any dialogue. They allege that none of the recommendations made by the Commission has been implemented by the Republic of Cameroun and the Commission itself has not invoked Rule 112 of its Rules of Procedure.
26. The Complainants state that the present Communication is motivated by the events unfolding in Cameroon. The Complainant submit that after several months of complaining, sometime in June/July 2016, Lawyers from the Southern Cameroons, belonging to the Common Law Legal System, down tools and refused to go to Court citing a catalogue of marginalization, discrimination, oppression and unfair treatment of the people of the Southern Cameroons and in the use of the English language and the Common law..
27. The Complainants submit that on 6 October 2016, the Common Law Lawyers Bar Associations in the Southern Cameroons (aka Cameroun Northwest and Southwest Regions) called a 4-day "sit-down strike from all court actions". The Lawyers stated that their strike action was predicated on the fact that their memos and demands to the government had been ignored, and that they were further vexed by the fact that when some of their members decided to exercise their constitutional right of freedom of expression through a press conference, the French-speaking administrative officials who are the ones administering the Southern Cameroons, imposed a ban on any meeting by Lawyers under pain of imprisonment. As if this stifling of freedom of assembly and of expression was not enough the Lawyers were allegedly subjected to police harassment and humiliation.
28. The Complainants allege that in the course of the Lawyers' peaceful demonstration, the government sent in para-military police. The police had a field day brutalizing the Lawyers, beating them with truncheons, seizing their robes and wigs, molesting most of them, and leaving some with serious injuries. It is alleged that the police are still keeping the wigs and gowns to this day.
29. The Complainants aver that the actions of the para-military police (the Camerounese police is militarized) drew serious condemnation from the public, including the diplomatic corps, local and international human rights organizations, University of Pretoria Centre for Human Rights, civil society, and the international community. After weeks trying unsuccessfully to defend the actions of the para-military police, the government set up a Committee to meet with the Lawyers. After a number of meetings, the Lawyers noted that the government was not interested in genuine negotiation but was rather intimidating and threatening the representatives of the Lawyers to these meetings and carrying out repressive actions through its police and military.



30. The Complainants submit that other Southern Cameroons professional groups, including Anglophone Teachers also joined the protest, requesting for better conditions of service, and for the promotion of a purely Anglo-Saxon system of education. This time the government responded by moving in her military forces (established essentially for internal repression), particularly her *gendarmerie* and her rapid intervention brigade known by the French acronym B.I.R. (*Brigade d' Intervention Rapide*) which violently targets the strikers using live bullets against unarmed civilians.
31. The Complainants allege that there were reported cases of killings, of systematic torture, of persons disappeared and of serious injuries. A wave of massive abductions followed, the abductees being carted to Yaoundé in former French Cameroun for trial in a military tribunal in a language and under a legal system they do not understand. Images and videos circulating on social media showed gruesome killings particularly in Bamenda and Kumba. They showed BIR soldiers torturing protesters seized from the streets and from houses. They showed security forces hovering over female students lying in the mud and of officers beating students in their dormitories. They showed terror-stricken truck-loads of persons, bare skinned or thinly dressed, crouching in military and police trucks with armed soldiers keeping an eye on them and being moved to Yaoundé.
32. The Complainants also allege that in recent weeks, "dozens of protesters have been arrested and moved to Yaoundé" (New York Times, February 10, 2017). The Complainants add that the 36 year-old regime of President Biya has not as much as acknowledged these gross and reliably attested human rights violations committed by his military, let alone apologized and put a stop to them, but has instead opted for an unconvincing general denial of their existence while incongruously declaring in a speech on 10 February 2017 that the crackdown shall continue. In this regard, the Complainants submit that they shall present some of the gruesome images and videos depicting the gross human rights violations in due course.
33. The Complainants submit that the government of the Republic of Cameroun engaged both the lawyers and teachers in apparent negotiations, setting up an *ad hoc* committee seemingly to deal with various issues. During the 'negotiations', the lawyers and teachers included federation on the agenda as part of the demands they had made in their memo to the authorities. They pointed out that their grievances could only be best resolved, protected and safeguarded under a federal system of government, at the very least. The government's response and official position was, and has remained, that federalism is a political matter on which it was not prepared to discuss, and that talk of a federation was a taboo subject. The government proceeded to ban any media discussion on federalism. It criminalized any advocacy of a federal system of government. It criminalized any support for the ongoing teachers and lawyers' strike. Its argument for taking these unwarranted, extreme and draconian measures is the fiction that federalism is the same thing as "dividing the one and indivisible Cameroun".
34. The Complainants submit that after a couple of meetings the parties could not agree and negotiations stalled. When negotiations failed, the lawyers, who had formed a Civil Society Consortium decided to call for civil disobedience, which included intensifying the school boycott, court boycotts and other services, including private taxi services. The form



of non-violent civil protest that has been instituted is denoted as “operation ghost towns”: every week there is suspension of daily life in the following manner – on Monday and Tuesday everyone stays at home with no shops and markets opened, effectively making the streets quiet; Wednesday to Saturday normal resumption of daily life; and Sunday, day of prayers. Meanwhile school and court boycott continue indefinitely.

35. The Complainants submit that in response to the call for civil disobedience and operation ghost town, the government resorted to further acts *in terrorem*, heavy handedness and intensified military crackdown occasioning a number of deaths, injuries and abductions by the military and police. Anyone in the Southern Cameroon suspected of being a member of the teachers’ or lawyers associations or of the consortium is, like many protesters before them, liable to abduction, taken to Yaoundé in former French Cameroun and imprisoned under life-threatening conditions while the authorities fish for charges. Almost all the leaders of the Consortium were picked up in the Southern Cameroon and whisked to Yaoundé, the capital of former French Cameroun.
36. The Complainants submit further that some of the arrested leaders and activist arrested have been charged with capital offences such as terrorism, treason, secession, and subversion. They are being tried in military tribunal in French and under the French system. As government crackdown intensifies, other leaders of the Consortium and many English speakers fighting for self-determination of the Southern Cameroons have managed to escape and sought refuge in friendly countries. Common law bar associations have unbelievably been banned as terrorist organisations, along with a number of other associations. Pleas by even the Catholic Church, the Presbyterian Church and the Baptist Church have all been dismissed with contempt by the Yaoundé regime.

The Complaint

37. The Complainants allege that since December 2016, there has been massive, indiscriminate and arbitrary arrests, disappearances of suspects in Southern Cameroon, all of them picked up during the night without any due process of an arrest warrant and taken to Yaoundé where they are locked up and tortured. The indiscriminate arrest includes Appellate Court State Prosecutors, teachers, lawyers, and other senior elites of Southern Cameroon extraction. To date, it is estimated that over 200 people have been abducted from the Southern Cameroon by government security forces, some have been found locked up in life-threatening jails in Yaoundé, some have not been traced and there are rumours that they have been killed and buried in mass graves around Yaoundé.
38. The Complainants submit that the intimidation and act of collective punishment of Southern Cameroons citizens by the government of the former French Cameroon continues unabated with the total blackout of internet services in the Southern Cameroons since January 2017, further provoking the anger of a population accustomed to using social media to communicate, and internet-based cash transfers to send money for business transactions and to relatives.
39. The Complainants add that since the shutdown of internet in the Southern Cameroons there are, in the Southern Cameroons, indiscriminate stop-and-on-the-spot checks,



seizures and arrests of persons suspected of disseminating information through social media. This has resulted in the seizure and destruction of mobile phones of a number of citizens of the Southern Cameroons simply because messages about the civil disobedience were found in their phones.

40. The Complainant allege further that all the towns and villages in the Southern Cameroon are heavily militarized and there are reports of arrests and shootings (with live ammunitions) on a daily basis, resulting to lootings, destruction of property and more deaths. The number of persons killed by the military is as yet difficult to determine. But they are certainly high to have elicited serious concern worldwide. The *Daily Mail* of London, 13 February 2017, gives the conservative figure of "at least six protesters shot dead and hundreds others arrested". Lawyers have boycotted Courts in the Southern Cameroons for over four months now, schools have been shut for the same period of time. Proponents of federalism are arrested. It is now a treasonable and even an offence of terrorism to advocate for federalism, as, according to the government of la République du Cameroun, federalism is a threat to the unity of Cameroun. There is therefore no Court with jurisdiction to adjudicate any petition calling for a federation system in Cameroon.
41. The Complainants finally submit that proponents of federalism now maintain that given the refusal by la République du Cameroun to accept a return to the federation of two states, equal in status, agreed upon between the Southern Cameroons and former French Cameroun in 1960 and which influenced the 11 February 1961 plebiscite vote for political association with former French Cameroun, then under the circumstances the Southern Cameroons is left with no other option than to break away from its colonial bondage and immediately restore its statehood as an independent state.

Articles alleged to have been violated

42. The Complainants allege that the actions of the government of la République du Cameroun constitute serious and massive violations of human and peoples' rights, including in particular Articles: 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 17, 19, 20, 21, 22, 23 and 24 of the African Charter.

Prayers

43. The Complainants request the Commission in view of the massive and serious human rights violations, the militarization of the Southern Cameroons (aka Northwest and Southwest regions) and the imminent risks of further loss of life as a result of the presence of armed soldiers in every corner of the Southern Cameroons, **to issue Provisional Measures:**
 - (i) requiring the government of la République du Cameroun to pull out its heavy military presence and close down its numerous military outposts strewn all over the territory of the former UN Trust Territory of the Southern Cameroons;
 - (ii) requiring the government of la République du Cameroun to end forthwith its kidnapping, intimidation, the daily threatening of citizens of the Southern Cameroons with abduction, imprisonment and death, and the carrying out of any other acts *in terrorem*.



(iii) la République du Cameroun to immediately restore internet services in the Southern Cameroons; and to make such other interim orders as the Commission may consider appropriate.

44. The Complainants also call on the Commission to transfer this matter to the African Court on Human and Peoples' Rights (the Court), under Rule 118(3) of the Commission's Rules of Procedure. The serious and massive human rights violations in the Southern Cameroons are continuing.

Procedure

45. The Secretariat received the Complaint on **20 February 2017** and acknowledged receipt on **23 February 2017**, informing the Complainant that the Complaint will be tabled before the Commission for consideration at its 21 Extra-Ordinary Session holding in Banjul-The Gambia from 23 February – 4 March 2017.

Analysis of the Commission on Seizure, Provisional Measures and Referral to the Court.

46. The Commission is of the view that the Complaint contains all the information required under Rule 93(2) of its Rules of Procedure.

47. The Commission finds that the Complaint reveals *prima facie* violation of the African Charter.

48. The Commission is also of the view that the request for Provisional Measures meets the criteria provided under Rule 98(1) of the Rules of Procedure of the Commission.

49. The Commission also finds that the Complaint constitutes a case of serious and massive human rights violations as provided under Rules 84 of the Rules of Procedure of the Commission.

Decision of the Commission on Seizure, Provisional Measures and Referral to the Court.

50. The Commission is seized of this Communication.

51. The Commission grants the request for Provisional Measures and calls on the Respondent state to:

- (i) halt all forms of intimidation, kidnapping, arrest, shootings and other acts of violence against residents of the North West and South West regions of Cameroon;
- (ii) disclose the whereabouts of all those arrested that their whereabouts are not yet known; and
- (iii) restore internet connections in the North West and South West Regions of Cameroon.

52. The Commission requests the Respondent State to report back on the implementation of the Provisional Measures granted within fifteen (15) days of receipt of this decision in accordance with Rule 98(4) of its Rules of Procedure.



53. The Commission invites the Complainants to present their evidence and arguments on Admissibility and Merits within two (2) months in accordance with Rule 105 (1) of its Rules of Procedure.

**Done in Banjul, The Gambia at the 21st Extra Ordinary Session of the Commission held
from 23 February to 4 March 2017**

ACHPR

