

Communication 336/2007 – AFTRADEMOP and Global Welfare Association (on behalf of the Moko-oh Indigenous Peoples of Cameroon) v. Cameroon

Rapporteur:

13th Extra-ordinary Session: Commissioner Gansou

Summary of the Complaint

1. The Secretariat of the African Commission on Human and Peoples Rights (the Secretariat) received a Complaint on 9 February 2007 from the Association for the Reconstruction and Development of the Moko-oh Peoples of Cameroon (AFTRADEMOP) represented by Mrs. Musongong Cecilia and Global Welfare Association on behalf of the Moko-oh Indigenous Peoples of Cameroon.
2. The Complaint is submitted against the Republic of Cameroon (the Respondent State or Cameroon), State Party¹ to the African Charter on Human and Peoples' Rights (the African Charter). The Moko-oh are an agro-pastoral minority of Upper Moghamo, a clan in Batibo Sub-division of the North-west of Cameroon.
3. The Complainants allege that since colonial period they have been oppressed and dominated by the Bali-Nyonga, a migrant tribe from Chamba in the North of Cameroon.

¹ Cameroon ratified the African Charter on 20 June 1989.

4. The Complainants allege that their domination, enslavement and oppression was initiated and facilitated by the German and the British administration and is still perpetrated by the Cameroonian administration.
5. The Complainants submit that in 1914, at the beginning of the 1st World War, after a series of raids, the Moko-oh were harassed and chased to different parts of the country. They allege that after being invaded by the Bali-Nyonga, Moko-oh villages were burnt down, markets closed, their oil and wine palm plantation demolished.
6. The Complainants further allege that in 1928, the District Officer of the Bamenda Division carried out a delimitation of the boundary between the Bali-Nyonga and the Moko-ohs. They claim that this reduced the Bali-Nyonga authority from 31 to 3 villages.
7. The Complainants state that in 1929, these boundaries were inspected and confirmed by the Provincial Resident of the Cameroon Province in Buea.
8. According to the Complainants, the Bali-Nyonga, refused to respect the boundary between them and the Moko-ohs. Instead, they prevented the Moko-ohs from returning to their villages.
9. The Complainants detail the several petitions filed before the relevant authorities before and after independence, all of which, they claim, fell on deaf ears. They claim that these petitions, seeking resettlement, include appeals to the Acting Resident in Buea, Cameroon Province in 1921, the Divisional Officer of Bamenda Division and the Provisional Resident in Buea in 1943, and the Colonial Office in Enugu through the District officer of Bamenda Division in 1949. The Complainants state that the administrative

authorities (colonial and after independence) regrettably maintained that the lands belonged to the Bali- Nyonga.

10. The Complainant state that, at independence, the Bali-Nyonga sons and daughters were everywhere in the Cameroon administration, to the extent that, wherever the Moko-ohs laid a complaint, there was a Bali-Nyonga elite to twist the facts and mislead the administration.
11. The Complainants further aver that in early 1978, the Governor of the North-West Province created a Commission to probe into complaints of land disputes, but failed to include a representative of the Moko-ohs in the Commission.
12. The Complainants further state that while the 1982 Presidential Decree No 82/20 granted land for resettlement to certain tribes like the Widikums, neighbours to the Bali-Nyonga, the Moko-ohs were left out.
13. The Complainants submit that in 1999, the Moko-ohs, organized themselves into the AFTRADEMOP. They claim that Mr. Mbanysig Charles Mbah, a nephew to the Chief of the Bali-Nyonga challenged the existence of the Association. They state that he caused the arrest and detention of AFTRADEMOP's executive members, and masterminded the suspension of the Association.
14. The Complainants claim that the suspension of their Association led to four court decisions and on 10 August 2000, the Momo High Court ordered Mr. Mbanysig Charles Mbah, to stay clear of the Moko-ohs struggle for their rights and that he should pay 500.000 FCFA to them as cost. The Court

declared the AFTRADEMOP to be legal and recognized the right of the Moko-oh people to freely associate under their association to pursue the objectives of their association and their development goals. The Court also passed a prohibitive injunction restraining the Respondent State from unrestrained use of the Moko-oh properties and lands.

15. The Complainants allege that, in an attempt to implement the Momo High Court ruling, a bailiff accompanied by 2 gendarme officers went to Mr. Mbanyamsig's residence, who used a gun, and threatened to shoot them. They claim that they reported this incident to the States Council, who did nothing because of the connivance of the Procureur General for the North-West Province with Mr Mbanyamsig.
16. The Complainants claim that AFTRADEMOP petitioned the Minister of Justice and Keeper of the Seals to call the North-West Procurer General to order and cause the Momo High Court judgment to be executed in favour of the Moko-ohs but no action was taken to date. Nor did the Moko-ohs receive any feedback from the Minister.
17. The Complainants further allege that on 8 January 2001 the Moko-oh petitioned the President of the Republic of Cameroon through AFTRADEMOP for their resettlement. They state that upon proposition of the Minister of Territorial Administration and Decentralization, a Commission to resettle the Moko-ohs is yet to be formed. They further state that , a unanimous recommendation was made that an inter-ministerial Commission be created for the resolution of the Moko-ohs' land and rehabilitation of their villages at an ILO International Conference held in June 2005 in Cameroon on Indigenous and Tribal Peoples Issues. They claim that the meeting was attended by the representatives of the President of

Cameroon National Assembly, the Minister of Territorial Administration and Decentralization, Minister of Justice and the Minister of Social Affairs. To date, there has been no feedback.

18. The Complainants also claim that on 2 May 2005, they wrote to the Minister of Territorial Administration, reminding him of the recommendation to create a Commission to resettle the Moko-ohs. They allege that there was no response.
19. The Complainants also aver that on 14 July 2004, encouraged by the impunity he enjoys, Mr. Mbanysig, sent a group of hooligans who invaded and arrested AFTRADEMOP's President and the Secretary General. They claim that both were taken to Mr Mbanysig's residence where they have been subjected to torture and other degrading treatments. They claim that they were ordered to sit on the bare floor.
20. The Complainants allege that on 10 April 2004, 16 Moko-oh men, women and children were attacked and butchered by the armed group of the Bali-Nyonga called the "German Bali Armed Group." They claim that, one of them, Paul N'difon, who sustained 90 days incapacity from a brain trauma, following the attack, died a month later.
21. The Complainants claim that in an attempt to seek redress and reparation for the violations of their rights, they filed a law suit involving murder in the Court of First Instance of Mezam. They allege that the matter was adjourned 22 times.
22. The Complainants submit that as a last resort, on 12 January 2006, they reported all these violations and the precarious situation of the Moko-ohs to

the Procurer General of the North-West Province of Cameroon, for the investigation and prosecution of the “German Bali Armed Group.” The Complainants allege that there has been no reply to that request.

23. The Complainants further claim that internal remedies, are inexistent in Cameroon, where the Judiciary is absolutely dependent on the Executive and is highly marred by generalized bribery and corruption.

Articles alleged to have been violated

24. The Complainants allege violation of Articles 3, 4, 5, 10, 11, 12, 14, 19, 20(1), 20(2), 20(3), 21, and 24 of the African Charter.

Prayers of the Complainants

25. The Complainants plead the Commission to urge the Government of Cameroon to:

- I. Take measures to stop the oppression of the Moko-oh Indigenous Peoples;
- II. Recognise the Moko-oh Indigenous Peoples land rights;
- III. Resettle and rehabilitate the Moko-ohs’ villages;

IV. The Complainants also plead the Commission to get the German and British Governments to pay reparations and adequate compensation to the Moko-ohs and any other order it may deem necessary in restoring the Moko-oh Indigenous Peoples fundamental human rights and freedoms as

contained in the African Charter and international human rights instruments.

The Procedure

26. The Complaint dated 7 September 2006 was received at the Secretariat of on 9 February 2007.
27. At its 41st Ordinary Session, held from 16 to 30 May 2007 in Accra, Ghana, the Commission considered the Complaint and decided to be seized thereof.
28. On 8 July 2007, the Secretariat notified both parties of this decision, and requested them to forward their written submissions on the Admissibility of the matter.
29. On 11 August 2007, the Complainants forwarded their written submission on the Admissibility of the matter, which was forwarded to the Respondent State on 20 August 2007.
30. On 1 November 2007, the Respondent State sent a Note Verbale requesting the Commission to defer the consideration of the matter to enable it forward its written submission at a forth-coming Ordinary Session.
31. At its 42nd Ordinary Session held in Brazzaville, Congo, the Commission deferred its decision on the Admissibility to its 43rd Ordinary Session scheduled from 7 to 22 May 2008 due to time constraint.
32. In Note Verbale and letter dated 11 April 2008, both parties were informed of the deferment of the decision on Admissibility of the Communication to the

43rd Ordinary Session so as to allow the Respondent State make its submission.

33. On 19 May 2008, the Secretariat received the Respondent State's submission on Admissibility.

34. By Note Verbale dated 24 October 2008, the Respondent State was requested to submit supplementary observations on the Admissibility of the Communication.

35. Then, the Commission deferred the consideration of the Communication at its 44th, 45th, 46th, 47th, 48th and 49th OS.

36. During its 50th Ordinary Session held in Banjul, The Gambia from 24 October to 5 November 2011, the Communication was considered and declared admissible by the Commission. The parties were accordingly notified of the decision and the Complainants by a letter dated 1 December 2011 were requested to submit their observations on the merits by february 2012.

37. By letter dated 21 August 2012, the Complainants were reminded one last time to submit their observations on Merits and they were informed that due to their failure to submit by the time requested, the Commission will proceed to strike out the Communication.

Reasons for strike out

1. Rule 108 (1) of the Commission's Rules of Procedure establishes that when a Communication has been declared admissible, the Commission shall set a period of sixty (60) days for the Complainants to submit their observations on the Merits.

2. In line with the above-mentioned rule, on 1 December 2011 the Complainant was requested to make its submissions on the Merits of the Communication, and was given sixty (60) days deadline which expired on 1 February 2012. The Secretariat did not receive any submissions or correspondence from the Complainants during this period.
3. On 19 August 2012, with the direction of the Commission, the Secretariat sent a letter to the Complainant giving the later one month deadline to make its submissions on the Merits. By the same letter the Complainants were informed that if they fail to make their submissions within the one month deadline, the Commission will proceed to strike out the Communication for lack of diligent prosecution.
4. The Commission notes that from 21 August 2012 to date the Secretariat has not received any submission(s) or correspondence from the Complainants.
5. The Commission also notes that additional efforts made to contact the Complainants by telephone proved futile.

Decision of the Commission

6. In the absence of any submission(s) or even correspondence of any kind from the Complainants, the Commission concludes to a lack of diligence prosecution, hereby decides to strike out the Communication, and notify both parties of the decision.

Done in Banjul, The Gambia, at the 13th Extraordinary Session of the African Commission on Human and Peoples' Rights held from 19 to 25 February 2013