

# **HOLLOW PROMISES**

## **Freedom of Expression in Cameroon since 1995**

**ARTICLE 19  
International Centre Against Censorship**

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ISBN 1902598148

October 1999

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ACKNOWLEDGMENTS

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This report was written by Carolyn Norris, a consultant to ARTICLE 19's Africa Programme. It was edited by Jon Lunn, Researcher in the Africa Programme. Rotimi Sankore copy edited and designed the report. We would like to thank Brice Nitcheu for contributing his personal testimony to this report. The views expressed in his testimony are not necessarily those of ARTICLE 19.

The report itself was translated into French by Ariel Daigre and Brice Nitcheu's testimony was translated into English by Vanessa Gosselin.

ARTICLE 19 is grateful to the European Commission (EC) for its financial support for the research and publication of this report. The views expressed do not necessarily reflect those of the EC.

### INTRODUCTION

Four years ago in Auckland, New Zealand, Commonwealth Heads of State and Government agreed that Cameroon should be admitted to the Commonwealth. This important decision was almost completely overshadowed at the time by the furore at the Auckland summit surrounding the execution of nine Ogoni activists by the then military regime in Nigeria. In joining the Commonwealth, Cameroon undertook to comply with the 1991 Harare Declaration, which promotes fundamental principles regarding democracy and human rights, including freedom of expression. However, since 1995, the Cameroon government has taken none of the steps that are required to ensure that effective safeguards for the protection of human rights exist. As Commonwealth Heads of State and Government prepare to meet once again in Durban, South Africa, the time has come for the Commonwealth to acknowledge that Cameroon has failed to abide by the Harare Declaration and to take meaningful action.

The Commonwealth should recognize that it shares some of the responsibility for this situation. Cameroon was virtually smuggled into the Commonwealth through the back door in 1995. The decision came following a Commonwealth mission to Cameroon, whose report has never been published. It came despite the existence of irrefutable evidence, compiled by international and local human rights organizations, to demonstrate that Cameroon's human rights record fell far short of the principles contained in the Harare Declaration.

The level of human rights abuses against political opponents, journalists and human rights activists invariably increases in Cameroon as parliamentary and presidential elections draw nearer. This is what happened in 1997. The 1997 elections were widely viewed as seriously flawed. Opposition politicians, journalists and human rights defenders were harassed. Biased reporting by the state broadcaster in the run-up to elections further undermined their democratic credibility. The Commonwealth declined an invitation to observe the Presidential elections in October 1997 on the grounds that a boycott by some opposition parties showed that the elections did not have the full support of all political parties – one of their criteria for observing elections – yet took no further steps with

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regard to respect for democracy and human rights in Cameroon. For example, calls by ARTICLE 19 for Cameroon to be added to the remit of the Commonwealth Ministerial Action Group (CMAG) on the Harare Declaration, which has the responsibility for taking action with regard to those Commonwealth countries deemed to be in “serious or persistent violation” of the declaration, went unheeded.<sup>1</sup> As yet, there are no guarantees that a similar pattern of events will not occur in the run-up to the next parliamentary and presidential elections in a few years time. Now is the time for the Commonwealth to take action to help break this cycle.

The feeble signals on human rights sent out by the Commonwealth since 1995 have done little to temper Cameroon’s longstanding indifference to its international human rights obligations. Most recently, the government failed to appear before the UN Human Rights Committee in March 1999 when asked to do so. The Committee has the task of scrutinizing the human rights record of countries which have ratified the International Covenant on Civil and Political Rights (ICCPR), and Cameroon has a treaty obligation to report to it. The Cameroon government’s apparent disregard for international efforts to scrutinize its human rights record was also demonstrated by the fact that the life of a human rights activist who had met the UN Special Rapporteur on Torture on his visit to Cameroon in May 1999 was subsequently threatened by security officials. ARTICLE 19 repeats its challenge to the Commonwealth to make public the 1995 report which recommended the admission of Cameroon to the Commonwealth and urges Heads of State and Government, when they meet in November 1999, to extend CMAG’s remit to include Cameroon.

Today, freedom of expression largely remains a mirage in Cameroon. Even apparent steps forward with regard to the media since 1995 have turned out to mean little in practice. The much-vaunted removal in 1996 of a prior censorship regime has been replaced by a system where the circumstances in which a newspaper can be banned or seized have been extended. No less serious, however, is the ongoing campaign of

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<sup>1</sup> For example, see ARTICLE 19’s Third and Fourth Written Submissions to CMAG, dated 20 February 1998 and 17 June 1998 respectively. Previous reports by ARTICLE 19 on Cameroon are: *Cameroon: A Transition in Crisis* (London: October 1997); *Cameroon: Harassment of the Press Continues* (London: February 1997); and *Northern Cameroon – Attacks on Freedom of Expression by Government and Traditional Authorities* (London: July 1995).

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criminal prosecutions against journalists. Many others have been subject to short-term arrest and other forms of harassment. The government retains complete control over the broadcast media, as regulations that would have allowed private broadcasters to operate have never been adopted. The government of President Paul Biya remains intolerant of political opponents and has taken illegal steps to undermine their support.

ARTICLE 19's concerns, as set out in this report, also include the cases of 68 civilians who are facing trial by military tribunal, most of whom have spent more than two years in custody. At least six of those arrested in March 1997 have since died in detention as a result of abuse or lack of medical care. The arrests followed attacks on officials in North West Province, but they appear to be politically motivated. The first trial hearing of their cases was adjourned after the charges were read out in a language none of the defendants, who are from the English-speaking area of Cameroon, understood. The trial continues at the time of writing.

## **2 PROSECUTIONS OF JOURNALISTS**

The past four years have seen a series of prosecutions of journalists in connection with writings which have criticized public officials or public figures close to the government, usually in relation to alleged corruption or some other matter of high public interest. Some examples follow below.

The use of criminal law to punish defamation is unacceptable and in practice is used primarily to restrict political criticism. With regard to civil suits, while the objective of balancing the right to freedom of expression and information against the right of individuals to protect reputations against inaccurate reporting is entirely legitimate, recent developments in international jurisprudence have resulted in recommendations that certain broad principles should be reflected in laws on defamation and the way the laws are implemented. These principles state that defendants should not be required to prove the truth of value judgements, statements reflecting public opinion or allegations based on rumours or the statements of others; that a public official who brings a defamation suit

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should have to prove not just that he has been defamed but that the defamation was committed maliciously; that a claim for defamation is weaker if the allegedly defamatory statement was made in response to a statement that was in itself provocative or inflammatory; that the limits of acceptable criticism are wider as regards a government body or public figure than as regards a private individual; that the press has a pre-eminent role in informing public opinion on matters of public interest and in acting as a public watchdog and that the press be accorded particular latitude when commenting on matters of political or other public interest; and that elected representatives, especially members of an opposition party, are entitled to greater latitude.<sup>2</sup>

- On 16 July 1999, Anselme Mballa, editor in chief of *Le Serment*, was sentenced to six months' imprisonment for defamation. The charge relates to an article published in April 1999 which was reportedly critical of the behaviour of the Secretary of State for Post and Telecommunications towards traditional chiefs. He remains in custody at the time of writing.<sup>3</sup>
- On 22 July 1999, Christophe Bobiokono, a journalist with a bi-weekly journal called *Mutations*, was arrested at his office by armed police and taken to the Gendarmerie in central Yaoundé. His arrest and subsequent charge are believed to be connected to an article which alleged that the son of a government minister was frequently allocated public contracts.<sup>4</sup> He spent 24 hours in custody and is due to face trial in September 1999 on defamation charges.
- On 8 June 1999, Souley Onohiolo, who had written a letter to the newspaper *La Nouvelle Expression*, was sentenced in his absence to a prison term of four months for defamation. The newspaper was also ordered to pay a fine of 83 million *communauté financière africaine* (CFA) francs in damages. In February 1999, he had

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<sup>2</sup> For a discussion of a range of relevant judgments regarding defamation which have informed this analysis, see *The ARTICLE 19 Freedom of Expression Handbook* (London:1993), 145-51; and J Stevens, "Sullivan's Travels: *New York Times vs Sullivan* visits the Court of Pakistan", *Southern African Media Law Briefing*, Vol. 2, No. 1 (ARTICLE 19/Freedom of Expression Institute/Media Institute of Southern Africa, April 1997).

<sup>3</sup> Reporters sans Frontières Action Alert, 23 July 1999.

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written a letter about allegations made at an exorcism which reportedly claimed that Adamou Bako, a transport company manager with close links to the ruling party, used sorcery to gain money. The businessman filed a complaint against Souley Onohiolo, however, a civil complaint became more serious when the police went to his home in an effort to arrest him. However, he was absent and was never arrested. His current whereabouts are unknown.<sup>5</sup>

- In December 1998, the appeals court in Douala upheld a 1997 criminal libel conviction against Severin Tchounkeu, publications director of *La Nouvelle Expression*. The higher appeals court increased sevenfold the amount of damages due and introduced a suspended prison sentence of three months, which he could be required to serve if he were to be convicted of another criminal libel charge within the following three years. That same month, the government criminalized a civil libel suit against Severin Tchounkeu, one of his reporters, Henriette Ekwe, and Social Democratic Front (SDF) opposition party chairman John Fru Ndi. Originally, the suit had been filed by Basile Kandoum, an unsuccessful candidate for the post of secretary general of the SDF, who was reportedly accused by John Fru Ndi of embezzling party funds. An interview by Henriette Ekwe with John Fru Ndi, when he reportedly made these allegations, had appeared in *La Nouvelle Expression* in October 1997. Henriette Ekwe was acquitted. Severin Tchounkeu and John Fru Ndi were given a suspended fine of 50 000 CFA francs and ordered to pay a symbolic fine of 1 CFA franc. The SDF has been singled out for other harassment (see below).
- Patrick Tchouwa, director of the independent newspaper, *Le Jeune Détective*, was arrested on 2 July 1998 in connection with an article alleging corruption on the part of senior government officials.<sup>6</sup> He was charged with false news, defamation and contempt. On 20 November 1998 he was convicted and received an eight-month

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<sup>4</sup> Ibid.

<sup>5</sup> Statement issued by Reporters sans Frontières, 18 June 1999.

<sup>6</sup> Reporters sans Frontières Action Alert, 14 July 1998.



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suspended prison sentence. Despite this, he was not released until 4 December 1998 due to “administrative delays”.<sup>7</sup>

- Samuel Eleme, director of the independent magazine, *La Détente*, fled Cameroon in January 1998 on the day after he was sentenced to a three-year prison sentence for defamation and a fine of 1 million CFA francs. The charges related to a series of articles which alleged that John Madengue Epee, director of a Cameroon insurance company, had been responsible for several thefts in Nigeria before he left to live in Cameroon.
- Michel Michaut Moussala, editor of *Aurore Plus*, was found guilty of defamation and sentenced on 13 January 1998 to six months’ imprisonment and fined one million CFA francs for alleging that Jean Lavoisier Tchouta Moussa Mbatkam, then a senior manager in the ports authority, was at the centre of a failed coup attempt. Although a warrant was issued on 14 January 1998, Moussala was not arrested until 3 September. He was released conditionally by the Court of Appeal on 4 February 1999 after serving five months of his sentence.
- Evariste Menounga, Publications Director of *L’Indépendant hebdo*, was arrested on 17 March 1997 for an article about disaffection in the armed forces. He was charged with dissemination of false news and incitement to revolt on 20 March. On 16 May 1997, after nearly 2 months in prison, he was convicted on both counts and given a six months’ suspended prison sentence. This case illustrates a disturbing trend whereby journalists spend a prolonged period of time in detention, despite the fact that they are eventually given a suspended sentence or even acquitted.<sup>8</sup>
- Pius Njawé and his newspaper, *Le Messenger*, have long been targeted by the government. On 27 February 1996, Pius Njawé and Eyoum Ngangue, editor and journalist respectively of *Le Messenger*, were convicted of defamation of and insult to the President and all members of the National Assembly, and required to pay a heavy

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<sup>7</sup> US Department of State, *Cameroon Country Report on Human Rights Practices for 1997*, Section 2(a).

<sup>8</sup> Ibid.

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fine. On 3 October 1996, the appeal court replaced the fine with prison sentences of six months and one year respectively. Pius Njawé was actually imprisoned between 29 October and 15 November 1996, when the Supreme Court granted his request for provisional release pending the outcome of his appeal on the merits of the case. This final appeal was rejected on 16 April 1998, at which time Pius Njawé was again in jail in connection with another case (see below). Eyoum Ngangue was imprisoned from 22 January to 31 March 1997. The charges stemmed from an article published on 1 December 1995 criticizing the draft amendments to the 1972 Constitution and cartoons satirizing the government's preparations for the 1996 OAU Summit and speculating as to possible conflicts within the armed forces.<sup>9</sup> More recently, Pius Njawé was arrested on 24 December 1997 for an article that had appeared on 22 December 1997 in *Le Messenger*, suggesting that the President was in ill health. This information came from reliable sources, according to Pius Njawé. On 13 January 1998 he was convicted of disseminating false news – although considerable doubt had been voiced about whether his comments were in fact erroneous – and sentenced to two years imprisonment and a fine. This was reduced to one year on appeal on 14 April 1998. An appeal on point of law (*pourvoi en cassation*) was lodged and the decision on 20 August 1998 by the Supreme Court confirmed his sentence. Finally, on 12 October 1998, after nearly 10 months in jail, Njawé was granted clemency by presidential decree. The clemency did not absolve Njawé of his criminal conviction and left his fine in place. It also did not compensate him for the time spent in prison.<sup>10</sup> Others who have tried to publicise Pius Njawé's case have themselves suffered reprisals (see below).

These are just a few examples from many court cases against journalists over the past four years. One result of this government strategy has been increasing self-censorship. In its report on Cameroon for 1998, the US State Department noted that “private journalists continued to practice greater self-censorship than they did before the Government's 1994-5 crackdown on the private press”.

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<sup>9</sup> ARTICLE 19, *Cameroon: A Transition in Crisis* (London: October 1997) .

<sup>10</sup> Amnesty International *Report 1998*, 122-5.

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These cases represent a dual breach of the international guarantee of freedom of expression. First, the subject matter of the impugned articles is speech which is protected by international law. Indeed, in many cases such subject matter is central to free political debate and an essential component of the public's right to know. Thus any sanction for this material is a violation of the ICCPR. In this regard, ARTICLE 19 considers that any prosecution for the offence of solely disseminating false news is a violation of the right to freedom of expression. Second, a prison sentence for defamation is itself excessive and hence a breach of the guarantee of freedom of expression. Even suspended sentences exert a significant chilling effect on journalists, particularly as any subsequent conviction may bring the sentence into effect. In addition, many journalists, like Evariste Menounga, spend time in detention pending determination of their cases. Another disturbing aspect of these cases is that many spend a very long time on appeal to the Supreme Court. Although the sentence is often suspended pending the outcome of an appeal, during this period the journalist may for obvious reasons be deterred from engaging in legitimate criticism of government. Also, the sentence has often been increased on appeal.

### 3 ARRESTS AND ATTACKS ON JOURNALISTS

In addition to the legal cases described above, many journalists have been arrested, questioned, detained without charge or subjected to attacks since 1995. The period of detention without charge often goes far beyond the already excessive 72 hours which the law allows. In many cases, the authorities' actions appear to be motivated by a desire to intimidate the journalist in question and to deter critical reporting on public officials and other individuals associated with the government.

In May 1999, the home of Aimé Mathurin Moussi, director of a weekly magazine, *La Plume du Jour*, was searched while he was away in France. Some of his documents were taken away and his mother was reportedly interrogated by the security forces during the search. Aimé Mathurin Moussi had the previous day been interviewed by a Parisian radio station, *Fréquence Paris Plurielle*, and had been critical of the government's policy

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in several areas, including human rights. He had also been involved in a public debate about environmental issues concerning a proposed oil pipeline. As a result of the threats against him, he has not returned to Cameroon. His magazine has been suspended since September 1997.

In November 1998 Christopher Ezieh of *The Herald* newspaper was arrested and held for two days in Kumba. His arrest had been ordered by the Governor of South West Province on charges of publishing false news, however, he was not formally charged. He had written an article which reported that the Governor had ordered a significant salary reduction for civil servants.

In March 1998, Brice Nitcheu, a journalist with the newspaper, *Bafang-Info*, who became involved in a committee set up to demand the release of Pius Njawé, was arrested while trying to fly out of the country with a colleague, Firmin Ngaleu. His documents were searched and the airport commissioner reportedly accused him of organizing a campaign to sabotage the Cameroonian government. After a night in custody, he was released, but his passport was confiscated and he was ordered to report to the police every 48 hours. In July 1997 Brice Nitcheu, Firmin Ngaleu and Jean-Michel Nitcheu, who is Vice-President of the opposition party, the SDF, were excluded from Banka, the home area of Brice Nitcheu and Jean-Michel Nitcheu, after a traditional court tried them in their absence for insulting the Banka people and their leader. The traditional court went so far as to rule that when they die, they cannot be buried on Banka territory. The previous month, Brice Nitcheu and three employees at the printing press spent 21 days in prison without charge or trial in an apparent attempt to silence them at the time when the legislative election results were announced. This case also shows the need for a review of customary law so that it adequately reflects Cameroon's international human rights obligations.

Christian Mbipgo Ngah, a journalist with *The Herald*, was arrested on 26 February 1997 and taken to the Santa Gendarmerie Brigade in Bamenda, where he was reportedly severely beaten and interrogated about his journalistic work. He was released only after promising, among other things, not to publish further critical articles on the

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former Prime Minister, Simon Achidi Achu.<sup>11</sup> Nyemb Ntoogue, also known as Nyemb Popoli, cartoonist with the satirical bi-weekly, *Le Messenger – Popoli*, fled Cameroon on 14 December 1998 after receiving a number of death threats from unidentified persons. His work has often been critical of government.<sup>12</sup> On 7 July 1997, David N’dachi Tagne, a *Radio France Internationale* correspondent, was stripped of his accreditation by Augustin Kontchou Kouomegni, Minister of State in charge of Communications, allegedly for distorting facts, tarnishing the image of Cameroon and intending to disturb public order.<sup>13</sup>

None of these cases and incidents have been the subject of formal inquiries or investigations and none of the journalists involved have been compensated or even received an apology for their mistreatment.

## 4 ATTACKS ON THE OPPOSITION

Members of opposition parties were harassed and intimidated in a variety of ways during the run-up to the National Assembly elections of 17 May 1997 and the presidential elections of 12 October 1997. These and other problems led international observers to criticize both elections as seriously flawed (see below). Some of the most serious irregularities occurred in the northern provinces, in particular, in the Department of the Mayo-Rey, where the traditional ruler sought to undermine the National Union for Democracy and Progress (UNDP), which held all three seats between the 1992 and 1997 elections.

In early January 1996 a group of UNDP members, including two members of the National Assembly, attempted to campaign in the Mayo-Rey region. They were attacked by *dogari*, armed guards reporting to traditional rulers or *lamibe*. Haman Adama Daouda, one of the members of the National Assembly, was beaten so badly that he died of head injuries on 18 February 1996. Attempts by the UNDP delegation in the National

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<sup>11</sup> Note 9 above, at 24.

<sup>12</sup> World Association of Newspapers Action Alert, 30 December 1998.

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Assembly to establish an official inquiry into this incident were unsuccessful and there has been no official investigation since then in response to extensive evidence submitted by his family, colleagues and witnesses.

Another incident, which occurred in the heat of the campaign for National Assembly seats, also involved a UNDP member of the National Assembly, Nana Koulagna. Nana Koulagna had been banned from the region by the *Lamido* of Rey-Bouba in 1992. Despite this, on 12 May 1997 he led a delegation to the region to campaign in the upcoming elections. The delegation was attacked by *dogari* and in the fighting which followed, five people were killed, two of whom were opposition members. The next day, 16 activists, including Nana Koulagna, were placed under preventative detention, apparently when they went to the Gendarmerie to report the incident. None of the 16 was charged. None of the *dogari* was arrested. All but Nana Koulagna and six others were subsequently released. Although the judicial authorities in Garoua ordered Nana Koulagna's release, he remained held under an order issued by a local official under legislation which allows for indefinite administrative detention. In October 1998 the seven people were charged by a military tribunal with murder, looting, arson, and illegal possession of arms. They remain held without trial.<sup>14</sup>

Some 68 people (53 of whom are in custody) went on trial in April 1999 before a military tribunal in Yaoundé in connection with a number of attacks on administrative and security officials in several towns in North West Province in March 1997. Those arrested included members of the Southern Cameroons National Council (SCNC) and an affiliated organization, the Southern Cameroons Youth League (SCYL). It has been suggested that the attacks, although portrayed by the government as the work of anglophone separatists, may have been carried out with government support either to discredit the SDF – a leading opposition party which draws its primary support from the West Province and the anglophone North West Province - or to provide a pretext for the authorities to impose tougher security measures in the pro-SDF province as the 1997 elections approached. The trial raises important concerns. At the first hearing in April

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<sup>13</sup> Amnesty International, *Blatant Disregard for Human Rights* (London: 16 September 1997).

<sup>14</sup> *Amnesty International Report 1999*, and for more detail on these and other attacks in the northern provinces and recommendations to the Government of Cameroon, Note 9 above, at 39-48.

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1999, the detailed charges were only available in French, despite the fact that the defendants were from the Anglophone North West of Cameroon; at least six of those arrested are reported to have died as a result of abuse or lack of medical care and those held are all reported to have been repeatedly tortured and to suffer serious ill health as a result of their conditions. The trial resumed in July 1999.

### **5 SEIZURES, SUSPENSIONS AND BANS - ATTACKS ON THE PRINT MEDIA**

A serious restriction on freedom of expression contained in the 1990 Law relating to freedom of mass communication, as amended in 1996<sup>15</sup>, is the power to seize and ban newspapers. Article 17 (new) provides that, in case of a threat to public order or good morals (*bonnes moeurs*), the competent administrative authority can order the seizure of a newspaper and the Minister in charge of Territorial Administration can order it to be banned. The operational impact of this article is bolstered by Articles 13-16, which require newspapers to provide judicial (the prosecutor), administrative (territorial authorities), archival and executive (ministry responsible for information) authorities with copies of publications within 2 hours of their publication. These broad powers are reinforced by two other provisions. Article 21 allows for the suspension of newspapers which have not complied with all the necessary conditions. Article 17, as amended in 1996, provides that anyone whose honour or dignity has been attacked may require the authorities to order the seizure or withdrawal from circulation of a newspaper. Article 17 does provide for an expedited process of judicial review of such orders. However, in practice this has not proved an effective remedy for newspapers.

The powers to seize and ban have both been frequently used, almost always pursuant to a claimed threat to public order. As recently as 4 January 1999, 1000 copies of the weekly newspaper, *Mamy Wata*, were reported to have been seized in response to claims by the authorities that the 64<sup>th</sup> edition posed a threat to public order. It had reportedly carried a cartoon about the President's personal life.<sup>16</sup>

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<sup>15</sup> Law No 90/052 of 19 December 1990 was amended by law No 96/04 of 4 January 1996.

<sup>16</sup> Reporters sans Frontières Action Alert, 7 January 1999.

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Pius Njawé's newspaper, *Le Messager*, has frequently been seized, either throughout the whole country or in certain locations. The seizure of a newspaper is clearly a dramatic interference with freedom of expression and ARTICLE 19 is of the view that such measures can rarely, if ever, be justified under international law. The illegitimacy of the seizures in Cameroon is clear from the fact that they are almost always in response to articles which are critical of government. Indeed, seizures often appear to be in the nature of reprisals rather than preventive action, being applied some days after the purportedly offending issue was published. Sometimes a subsequent issue is seized. It is, therefore, quite clear that maintaining public order is not the primary goal.

Banning newspapers, perhaps the most intrusive measure the authorities can take, is also a frequent occurrence in Cameroon. For example, *La Plume du Jour*, an independent weekly, was subjected to a banning order on 12 September 1997, which was still in place at the time of writing. The day before its banning, the weekly had printed two articles criticizing the country's leadership and penal system. In June 1999, the mother of the paper's editor-in-chief, Aimé Mathurin Moussi, was interrogated for information about her son who was away in France.<sup>17</sup>

On 8 August 1996, Gaston Ekwalla, a journalist with the newspaper, *La Détente*, was sentenced to five months' imprisonment for defaming a Member of Parliament. At the same time, the newspaper was suspended for 6 months. The article in question had linked the parliamentarian with an allegedly illegal network, which issues diplomatic passports.

The threat posed by suspensions and bans is exacerbated by the arbitrary fashion in which the law is applied in Cameroon. In some cases suspensions, even when ordered by courts, are not enforced effectively, providing an ongoing deterrent threat against the newspaper. This was the case, for example, with *Generation* newspaper, suspended for six months on 3 May 1996 at the same time as the managing director was sentenced to five months' imprisonment for defamation and injury. The article in question suggested that an oil company president had been engaged in corrupt activities. In other cases seizures continue even after a court has ordered them to cease. In the case of *Mutations*, a

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<sup>17</sup> Reporters sans Frontières Action Alerts, 13 January 1999 and 10 June 1999.



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ban imposed by the authorities on 24 June 1997 was lifted by a court on 4 July 1997. Despite this seizures continued.<sup>18</sup>

Article 8 of the 1990 Law provides that every newspaper must have a director. This provision, which may seem reasonably innocuous, was used by the Minister of the Territorial Administration to close down *Le Nouvel Indépendant* in October 1996. The newspaper's director, Ndzana Seme, went into hiding after his sentence for contempt of the head of state and inciting revolution was increased to one year's imprisonment by the appeal court on 27 October 1995. He fled Cameroon in February 1996. As a result of these events, the newspaper did not have a director and this was used to justify the October 1996 closure.

A number of other provisions in the law also pose a threat to freedom of expression. Articles 23 and 24 require foreign publications to deposit copies with the ministers responsible for Foreign Affairs, Territorial Administration, Information and Justice some twenty-four hours before distribution and allow the Minister in charge of Territorial Administration to forbid circulation and sale within Cameroon. No conditions are attached to the exercise of these powers; the publication may appeal to a court, which must decide the case within one month. Article 47, requiring journalists to treat information with objectivity and responsibility, would be more appropriate as part of a self-regulatory code. More disturbing is Article 48, which provides that a code of ethics for journalists shall be established by government regulation. The following year, 1991, a new law set up a National Council for Communication.<sup>19</sup> Its President is nominated by the President of the Republic and the Council has responsibility for developing a code of practice for all aspects of the media. Articles 52 and 53 of the 1990 Communication law require publications to carry replies from any public authorities or individuals that have been named in a report. Articles 56 and 57 impose a similar obligation on broadcasters. Article 68 provides for fines for refusing to publish replies from public authorities without justification. Article 69 provides for fines for refusing to publish replies from individuals; no defence of justification is provided for in such cases. The law does not

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<sup>18</sup> US Department of State, *Cameroon: Country Report on Human Rights Practices for 1997*, Section 2(a).

<sup>19</sup> Decree No 91/287 of 21 June 1991.

establish any right to access government-held information and there is no general access to information or freedom of information law in Cameroon.

## 6 GOVERNMENT CONTROL OF THE BROADCAST MEDIA

Radio and television broadcasting continues to be a virtual monopoly of the State broadcaster, the Cameroon Radio-Television Corporation (CRTV). Regulations to implement the provisions in the 1990 Law mandating the licensing of private broadcasters have never been promulgated, despite a promise made in Cameroon's 1993 report to the Human Rights Committee to publish them "shortly".<sup>20</sup> Since these provisions explicitly require private broadcasters to have a licence, it has so far been impossible to establish a private broadcasting company. Due to a loophole in the law, which requires private but apparently not necessarily community broadcasters to have a licence, a Canadian-funded project to set up five rural radio stations has been approved. However, these pose only a minor threat to the government monopoly as they are in remote, thinly populated areas of the country which even the CRTV does not reach.

In addition, the state broadcaster is not independent of government, as illustrated by a lack of structural and regulatory guarantees of independence. It is formally a public corporation, subject to general supervision by the Minister of Information. Its structure comprises three governing organs – a Board of Directors, a General Directorate and a Financial Commission – all appointed by government figures. Eleven individuals sit on the Board of Directors, of whom four are appointed by the Head of State; six represent various ministries while the Chairman is appointed by decree. The General Directorate is governed by a Director-General and a Deputy Director-General, both appointed by decree. The three members of the Financial Commission are all appointed by senior government figures.

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<sup>20</sup> *Second periodic reports of States parties due in 1990: Cameroon*, 5 April 1993, UN Doc. CCPR/C/63/Add.1, para. 85.

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This lack of structural and editorial independence is reflected in the partisan approach of the CRTV, which tends to act as a mouthpiece of government rather than as a servant of the public interest. This bias, particularly apparent in its reporting during election periods as detailed below, is also manifest at other times. The US State Department report notes: “Government reporters rarely criticize the ruling party or portray government programs in an unfavourable light, but sometimes do so implicitly. The government-controlled broadcast media provide broad reporting of the ruling Cameroon People’s Democratic Movement (CPDM) functions, while giving relatively little attention to opposition events”.

A number of blatant incidents of censorship illustrate the control the authorities exercise over broadcasting. In May 1996, the weekly debate programme on Yaoundé FM 94 public radio, *Les Heures fugaces*, was peremptorily banned just as it was due to be aired. The host and his guest had planned to speak about the demise of former President Ahmadou Ahidjo.<sup>21</sup> The formal justification for the banning was that the host had not completed the necessary formalities. No programme seems to be immune from this sort of pressure. In March 1997, a series of pro-democracy election broadcasts sponsored by the Canadian High Commission was discontinued for two weeks. CRTV resumed broadcasting these programmes only when the Canadian Government lodged a protest. In the same month, *Crossfire*, a weekly chat show broadcast on the Bamenda provincial station was suspended on the order of the Governor for several months.<sup>22</sup>

In July and August 1998, CRTV management refused to broadcast two contributions from the SDF, which were critical of President Biya's absence from some international meetings and of the alleged mismanagement of funds for the national football team.<sup>23</sup>

### **CRTV and the 1997 Elections**

Two national elections took place in 1997, one for the National Assembly in May and another for the Presidency in October. There were serious problems in terms of coverage

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<sup>21</sup> Note 9 above at 18-19.

<sup>22</sup> Ibid.

<sup>23</sup> US Department of State, Cameroon: *Country Reports on Human Rights Practices for 1998*, Section 2(b).

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by the media during the elections. In particular, the state media was heavily biased towards the government.

A key structural problem is that a body controlled by the ruling party, the Ministry of Territorial Administration (MINAT), bears primary responsibility for the organization of elections, despite repeated calls by independent observers for an independent electoral commission to be established.

A two-week official campaign period is prescribed for elections during which time a special election broadcast regime applies. At other times, all political parties represented in the National Assembly are allowed to make direct party broadcasts on national broadcast stations. A total of two hours per week for radio and one hour for television is reserved for this purpose, being equally divided between the ruling parties and the opposition parties. Specific times are allocated according to respective share of the vote in the last legislative election. Each party is guaranteed a minimum of 10 and 5 minutes respectively on radio and television.<sup>24</sup>

Special broadcasting regimes apply during the two-week pre-election period. For example, during the 1997 National Assembly elections, each of the 11 radio stations (one national and one in each province) were required to allocate a total of 30 hours (2 hours each day of the campaign) to direct access programmes. The national television station was required to allocate 15 hours (one per day) to direct access programmes. These programmes were distributed among the parties in proportion to the number of candidates presented and the number of constituencies contested.<sup>25</sup>

This regime, however, applied only to direct access programmes and only during the 15 days of the election campaign. Its apparent balance may be contrasted with the biased news reporting that took place outside that period, before and after both of the elections held in 1997. A major media-monitoring project conducted by Conscience Africaine-Cameroon in conjunction with ARTICLE 19 during the 15-day presidential election campaign also found evidence of bias. It reported that between 18 February and 4 March, 84% of the television news reporting on political parties was devoted to the

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<sup>24</sup> Decree No. 92/030 of 13 February 1992, Article 4.

<sup>25</sup> Decree No. 001/MINCOM/CAB of 29 April 1997.

ruling CPDM.<sup>26</sup> In addition, a qualitative analysis found a systematic bias in favour of the incumbent, Paul Biya, not only in the language and treatment of information but also due to repeated playing of pro-Biya songs.<sup>27</sup> Furthermore, President Biya exceeded his allocation of direct access time – 3 hours and 6 minutes – by 24 minutes.<sup>28</sup> The main opposition parties, including the SDF and UNDP, boycotted the presidential elections and hence received no direct access time. In terms of news reporting during the campaign period, these parties received a total of less than 27 minutes of coverage compared to over 30 hours for the parties contesting the election despite the fact that the boycott was a major aspect of the presidential election.<sup>29</sup>

It is worrying to note that despite a series of reforms being endorsed by some international observers, no significant positive reforms have been undertaken to correct the flaws in the electoral process. For example, there is still no independent electoral commission and opposition party sympathisers continue to be detained and otherwise harassed.

## 7 CAMEROON'S CONSTITUTIONAL AND INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

The revised Constitution of Cameroon, which became law in January 1996, provides in its preamble that “freedom of expression, of the press, of assembly, of association and of trade unionism shall be guaranteed under the conditions fixed by law”.

The preamble also affirms an attachment to the fundamental freedoms enshrined in the Universal Declaration of Human Rights, the Charter of the UN and the African Charter on Human and Peoples' Rights.

These guarantees, while important, are deficient because there appear to be no provisions which limit how and when these freedoms can be restricted. The Constitution should stipulate that only restrictions which meet a stringent test for legitimacy, as

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<sup>26</sup> Conscience Africaine, *Synthèse du Rapport d'observation des médias publics en période pré-électorale* (Yaoundé: 1997). Also T. Bakary and S. Palmer, *May 17, 1997 Legislative Elections in Cameroon* (International Foundation for Election Systems, 1997), 32 and 55.

<sup>27</sup> Conscience Africaine and ARTICLE 19, *Média “Prési-97”: 1er Rapport d'observation de la Radio Nationale* (Yaoundé: 1997).

<sup>28</sup> Ibid.

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required under international law, are acceptable. Not only does the Constitution not specify circumstances in which restrictions would be permissible, but Cameroon also has legislation on the statute book which permits a far-reaching state of emergency. To conform with the ICCPR, which Cameroon has ratified, there are certain provisions from which no derogation is permissible. Yet, Cameroon admitted in its 1997 report to the Human Rights Committee, which monitors respect for the ICCPR, that “all individual freedoms provided for in the preamble to the Constitution are reduced” under a state of emergency.<sup>30</sup>

In addition to the 1991 Harare Declaration, which sets out fundamental principles agreed by members of the Commonwealth, Cameroon has specific obligations under international human rights law. This includes an obligation under the ICCPR to adopt legislative or other measures to give effect to the rights enshrined in it. As this report shows, Cameroon shows little commitment to conforming to these obligations. In 1994, the UN Human Rights Committee noted that “freedom of expression is not guaranteed” in Cameroon. It also deplored the “multiple cases of torture, ill-treatment, extrajudicial execution and illegal detention, suffered in particular by journalists and political opponents”. The Committee further stated that torture and ill-treatment seemed to be practised systematically by the security forces. Despite a few cosmetic changes, the conclusions reached by the UN Human Rights Committee in 1994 remain as valid today as they were then. Similarly, the Cameroon authorities have not taken the requisite measures to address another concern voiced by the Committee in 1994, namely “the control exercised by the authorities over the press, radio and television”.<sup>31</sup>

In its third periodic report to the UN Human Rights Committee, made in 1997, Cameroon stated that, in response to allegations of torture which had been received by the authorities between 1990 and 1995, at least 325 police officers of all ranks had been punished for human rights violations.<sup>32</sup> The UN Special Rapporteur on Torture has repeatedly asked the Cameroon government for an invitation to visit so that he can properly

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<sup>29</sup> Ibid.

<sup>30</sup> State of Emergency Law No 90/047, December 19 1990.

<sup>31</sup> *Concluding Observations of the Human Rights Committee: Cameroon*, 18 April 1994, UN Doc. CCPR/C/79/Add 33, para.13.

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investigate allegations of torture in Cameroon which he has received. Following such an invitation, he visited Cameroon in May 1999. The Special Rapporteur is due to publish his report in the near future. One of the human rights activists who met the Special Rapporteur during his visit survived an attack on his life. Abdoulaye Math, President of the *Mouvement pour la défense des droits de l'homme et des libertés*, (MDDHL, Movement for the Defence of Human Rights and Liberties), a non-governmental human rights organization, and Semdi Soulay, his assistant, were victims on 28 May 1999 of an attempted attack by government security officials who surrounded their homes and threatened members of Abdoulaye Math's family with a gun. Fortunately, the two men were away from their homes at the time.<sup>33</sup>

The Cameroon government's 1997 report to the UN Human Rights Committee also provided extensive information about *Comité national des droits de l'homme et des libertés*, the National Commission on Human Rights and Freedoms, which was established by President Paul Biya in February 1992. This governmental commission has conducted a number of investigations into human rights abuses and has been involved in training officials in matters of human rights.<sup>34</sup> However, the reports it has submitted to the Office of the Prime Minister and the Office of the Presidency have never been made public. Nor is it clear that its reports have led to any prosecutions. The legislation provides that a representative of each political party represented in the National Assembly should have a place on the Commission. However, none of the opposition parties have yet been allowed to take their place.<sup>35</sup> The Cameroon government should urgently reform the legislation setting up the National Commission on Human Rights and Freedoms to ensure that it conforms fully with the 1993 UN Principles relating to the Status of National Institutions.<sup>36</sup>

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<sup>32</sup> Human Rights Committee: *Third periodic report of States parties due in 1995 : Cameroon, 1 December 1997*, UN Doc. CCPR/C/102/Add.2.

<sup>33</sup> Amnesty International, Urgent Action 128/99, 2 June 1999.

<sup>34</sup> *Country Reports on Human Rights Practices for 1998* (Washington: United States Department of State, 1999).

<sup>35</sup> Reaction of The Human Rights Defence Group to the State of Cameroon's Third Periodic Report made to the Human Rights Committee, March 1999.

<sup>36</sup> UN General Assembly resolution 48/134 of 20 December 1993, annex.

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Cameroon's attitude towards its international obligations is perhaps most vividly symbolized by its ongoing failure to respond to the UN Human Rights Committee's views in the 1994 *Mukong v. Cameroon* case.<sup>37</sup> In *Mukong*, the Committee was of the opinion that Cameroon had breached Articles 7, 9(1) and 19 of the ICCPR. As a result, it decided that Cameroon should, among other things, provide Albert Mukong with appropriate financial compensation and investigate his allegations of ill treatment in detention. To date, the government of Cameroon has done neither.

When last called upon to discuss its periodic report to the UN Human Rights Committee in March 1999, the Cameroonian delegation failed to appear. The hearing has had to be rescheduled to October 1999.

## **8 CONCLUSION AND RECOMMENDATIONS**

ARTICLE 19 believes that Cameroon's human rights record since 1995 leaves no room for equivocation by the international community, including the Commonwealth. The failure of the Commonwealth to ask tough questions of a government which is without doubt a "serious and persistent" violator of the Harare Declaration once more highlights the difficulties which it has had in defining its role in a global order in which human rights have become increasingly central. However, it is not too late to change course on Cameroon. ARTICLE 19 urges the Commonwealth to do so. Further, the Commonwealth should take the lead in coordinating action across the international community as a whole to put pressure on the Cameroon government to respect its international human rights obligations. Below are some specific recommendations for action on Cameroon by the Commonwealth and the international community.

However, in the final analysis, the most culpable party is the Cameroon government itself. It has the primary responsibility for ensuring that the human rights of its citizens are protected and promoted. Accordingly, our recommendations for action begin with the Cameroon government.

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<sup>37</sup> No. 458/1991, views adopted 21 July 1994.



### **Recommendations for action by the Cameroon government**

ARTICLE 19 believes that a number of steps should be taken to address the concerns described above and to bring Cameroon's law and practice fully into accordance with the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights. In particular, the authorities should:

- bring about an immediate end to official harassment of individuals for the non-violent exercise of their right to freedom of expression. In particular, no one should be subject to threats, questioning, arrest or detention for criticizing the government or public figures or for investigating human rights violations;
- investigate promptly any attacks on journalists, human rights activists and opposition politicians and bring the perpetrators to justice. If the evidence discloses official involvement in such attacks, including by traditional rulers, urgent steps should be taken to ensure that this ceases;
- amend the criminal code to remove penal sanctions for defamation and the crime of dissemination of false news. All existing suspended sentences should be withdrawn and the government should ensure that no criminal law provisions are used to harass journalists or otherwise suppress freedom of expression;
- reform the legislation setting up the National Commission on Human Rights and Freedoms to conform to the UN Principles relating to the Status of National Institutions to guarantee its independence.<sup>38</sup>
- comply with the recommendations of the UN Human Rights Committee in the Mukong case, including by providing appropriate financial compensation - with Interest - to Albert Mukong, and by undertaking an investigation into his allegations that he was ill-treated in detention;
- amend the state of emergency legislation to conform to the requirements of the ICCPR;

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<sup>38</sup> UN General Assembly resolution 48/134 of 20 December 1993, annex.

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- amend Articles 17 and 21 of the Law relating to freedom of mass communication to remove the provisions allowing for seizure, suspension and banning of publications. Any suspensions currently in effect should be lifted immediately;
- repeal Articles 23 and 24 of the Law relating to freedom of mass communication, providing for prior censorship of foreign publications;
- repeal any legal provisions dealing with questions relating to journalistic ethics. Such matters should be left to journalists and their associations;
- amend provisions on the right of reply in Articles 52, 53, 56 and 57 of the Law relating to freedom of mass communication to bring them into full conformity with the requirements of international law;
- promulgate, as soon as possible and after appropriate public consultation, a law establishing a broad right to access government-held information;
- promulgate regulations as soon as possible to establish a licensing regime for private broadcasters. Such a regime should be fully independent of government control and licence allocation should be impartial, based on published criteria which are intended to promote pluralism and the public's right to know;
- transform the state broadcaster into an independent public service broadcaster; this requires, in particular, that the governing organs are fully independent of government and that editorial independence is guaranteed. In addition, steps should be taken to ensure that officials respect these guarantees in practice;
- introduce a legal provision requiring the public broadcaster to be balanced and impartial in its news coverage, particularly during election campaigns.

### **Recommendations for action by Commonwealth Heads of State and Government, when they meet in Durban, South Africa, in November 1999**

ARTICLE 19 calls on Commonwealth Heads of State and Government to:

- agree to publish in full the 1995 report which recommended that Cameroon should be admitted to the Commonwealth;
- agree to send to Cameroon a delegation to assess the human rights situation in Cameroon, to be headed by the new Commonwealth Secretary-General. The

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delegation should be required to visit Cameroon and publish its report in full within six months;

- mandate CMAG to extend its remit to include Cameroon;
- agree that the Commonwealth should play a leading role in coordinating wider efforts within the international community to put pressure on the Cameroon government to comply with its international human rights obligations.

Specifically, ARTICLE 19 calls on CMAG to:

- recommend to Commonwealth Heads of State and Government that its remit be extended to include Cameroon;
- recommend that the Commonwealth send a delegation to Cameroon to assess the human rights situation which should be headed by the new Commonwealth Secretary-General.

### **Recommendations for action by the wider international community**

ARTICLE 19 urges foreign governments and intergovernmental and international bodies such as the UN Commission on Human Rights and the African Commission on Human and Peoples' Rights to:

- bring pressure to bear upon the Cameroon government to implement the reforms set out in ARTICLE 19's recommendations above with regard to freedom of expression;
- encourage the Cameroon government to co-operate fully with all international bodies set up to monitor its compliance with its international human rights obligations;
- give support to civil society organizations in Cameroon and ensure that they are fully involved in consultations about reforms designed to strengthen respect for human rights and build genuine democracy.