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COMMUNICATION FROM THE COMMITTEE FOR THE DEFENCE OF
DEMOCRATIC LIBERTIES IN BLACK AFRICA CONCERNING THE
CAMEROONS UNDER FRENCH ADMINISTRATION

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COMMITTEE FOR THE DEFENCE OF DEMOCRATIC LIBERTIES IN BLACK AFRICA

4, Cité Monthiers - PARIS IXe

To: The Secretary-General of the United Nations.

Paris, 12 August 1955

Sir,

At the request of several Cameroonians in prison, the Committee for the
Defence of Democratic Liberties in Black Africa is sending you the memorial
deposited with the Chief State Counsel, at Douala, by the defending counsel in
connexion with the application to the French State Council for an order to quash
the Decree dissolving the Union des Populations du Cameroun (UPC).

I have the honour to be, etc.

(Signed) Pierre KALDOR

The Committee Secretariat

MEMORIAL

As a result of the events which in May 1955 steeped the Territory of the Cameroons in blood, hundreds of Cameroonian citizens are now under arrest or warrant for arrest. Their accusers are trying to blame them for all or some of the incidents. According to the Administration, the incidents in question were an attempt at armed subversion, fomented by various organizations and more particularly the Union des Populations du Cameroun (UPC). This is the version of the facts given by the High Commissioner in his speech to the Territorial Assembly and in his statements to the Parisian press. It is also the reason given for the governmental decision to dissolve the UPC.

Justice could never countenance such a plea, which the defence will have no difficulty in showing to be diametrically opposed to the truth. It will show that the UPC has been consistently conducting a campaign based on the principles of the United Nations Charter, the Trusteeship Agreements and the French Constitution. Because this campaign took those principles seriously and was waged in an unwavering and uncompromising spirit, it won very wide support among the masses of the people. The defence will further show that the decision to "finish off" the UPC was taken well before the events occurred.

As for the events themselves, it will be easy to prove that they were due to a few well-known provocateurs and have served as a pretext for carrying out a political move which had long been contemplated.

If the French judicial authorities in the Cameroons really wish to elucidate the facts brought to their notice, in complete independence of the Executive, they must abide by the fundamental rules and principles governing any unbiased judicial inquiry in criminal law.

These principles, which it is hardly necessary to recall, so elementary are they, are as follows:

- All citizens are equal before the law;
- All opinions are lawful and no one must be interfered with because of his opinions but only for concrete acts punishable by law;
- Every citizen must be counted innocent until proved guilty;
- Freedom is the rule, detention the exception;

- Every accused person has the right to be assisted by counsel of his choice and may refuse to reply to questions except in the latter's presence.

These principles, however, do not seem to have been strictly observed so far. Indeed, it would be easy to show that the exact opposite has often been the case:

- All, or nearly all, those who are accused are deprived of any counsel for their defence;
- The political allegiance of citizens is habitually regarded as conveying presumption of guilt;
- The onus of proof is almost invariably thrown on the wrong shoulders, the accused being invited to furnish proof of their own innocence, etc.

The object of this memorial is to go more particularly into the circumstances in which the judicial inquiry into cases connected with the events of May 1955 is being conducted. Before doing this, let us recall that the French judicial authorities in the Cameroons are under a special obligation to respect human rights, such respect being formally prescribed by the United Nations Charter and the Trusteeship Agreements. Article 76 of the Charter declares that one of the basic objectives of the trusteeship system is "to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion ...".

I. RIGHTS OF THE DEFENCE

There is no denying that the immense majority of the accused are deprived of all rights of defence. Certainly, of those summarily convicted by various courts of the Territory immediately after the incidents, not one (and they number more than 100 and perhaps as many as 200) had the assistance of counsel. It is quite likely that they were not even informed of their right to appoint one. According to consistent accounts of the hearings, the sentences were passed in haste and without discussion. Several persons were convicted in a few hours, often merely after questioning as to their identity. In other words, the sentences were based solely on police reports which have themselves been drawn up in haste. The accused do not even seem to have been cautioned about their right to appeal. In many cases they were sent off to the Mokolo prison as soon as sentence was pronounced and even before the time limit for appeal had expired. We are

informed that appeals were nevertheless lodged in some places but were regarded as inadmissible. Such were the conditions under which dozens of sentences, many of them involving up to several years' imprisonment, were passed.

Several of the accused whose cases are the subject of judicial inquiry at the moment have chosen Parisian lawyers to defend them. Two of the latter, who spent the month of June in the Cameroons, were regularly denied access to the case files and the right to be present at interrogations. In fact, they had some difficulty in obtaining permits, often only temporary ones, to communicate with their clients. We may add that they often had cause to complain of the pressure exerted on the accused to dissuade them from choosing those particular lawyers and of the police persecution to which citizens in contact with them were constantly subjected.

The main reason given for denying the lawyers access to the files was based on a text governing the exercise of the profession of counsel for the defence in the Cameroons. This gives the monopoly in the matter of pleading and conducting cases to a special body of local defending counsels but adds that counsel from outside the territory may be authorized to plead by the President of the Court. The text, as literally interpreted by the State Counsel's Department, would allow counsel from outside the territory to plead only. This interpretation is untenable, for, firstly, the examining magistrate constitutes a court and the text makes no distinction between courts of trial and courts of inquiry; secondly, the right to plead is used in the text in contradistinction to the right to conduct a case and clearly includes all acts of assistance by counsel, excluding the functions of attorney which Cameroonian counsel for defence have the right to perform in addition to pleading. The fact that an earlier text prescribed the notices that the examining magistrate is bound to give only to counsel called to the local bar can easily be understood on grounds of distance but it should in no way exclude counsel from metropolitan France who are on the spot from attending the judicial inquiry.

The desire to deprive the accused of defending counsel of their own choice has been carried even further, it being maintained that even a Cameroonian counsel not called to the local bar could not have access to the files or be present at the judicial inquiry even if he were on the spot on the day of the interrogation. This theory, which deliberately confuses the rights of the defence with the

obligations of the magistrate with respect to statutory notice, further limits the narrow choice left to the accused.

At this point we must make it quite clear that there are so few defending counsel in each circuit that, even if they wanted to, they could not give proper attention to all cases. Apart from this, however, most of them, for reasons on which there is no need to pass judgment here, are by no means anxious to accept such briefs.

On the other hand, for perfectly legitimate reasons, most of the accused wish to have a free choice of counsel.

All this points to the conclusion that in hundreds of cases the judicial inquiry is conducted in the absence of any counsel. The only possible explanation for this determination on the part of the State Counsel's Department and the examining magistrates to perpetuate a state of affairs which they should be the first to deplore is that they entertain misgivings regarding the proceedings that have been instituted. While there is no instance of obstacles ever being put in the way of counsel in judicial inquiries conducted by due process and based on sound evidence, experience shows that proceedings bristling with irregularities and based on dubious indictments are precisely those which the authorities are at pains to shield from the critical eye of counsel.

II. POSITION OF THE ACCUSED TRANSPORTED TO MOKOLO

Immediately after the incidents, dozens of Cameroonian citizens were sent off to the Mokolo prison in the extreme north of the Territory. These citizens included not only persons summarily convicted in haste, as already pointed out, but also many who had merely been charged with an offence. It was on this account that on 22 June 1955 Maître MATARASSO and Maître CACHIN-JACQUIER addressed the following letter to Mr. CAU, examining magistrate at DOUALA:

"Among those who were sent to Mokolo after the recent events are some accused persons into whose cases you are conducting a judicial inquiry.

The fact that these accused, i.e. citizens still enjoying presumption of innocence in the eyes of the law, have been sent a thousand kilometres from their homes, families and friends, in circumstances which make it practically impossible for them to arrange for their defence and without any guarantee of immunity from physical harm, constitutes an utterly inadmissible state of affairs against which we felt it our duty vigorously to protest.

An attempt has been made to counter with the argument that the presence of these accused in Douala was not necessary, since they are alleged to have refused to reply at the first interrogation. Quite apart from the fact that we have no proof that they did so refuse, which, in any case, they might have had good legal grounds for doing, it cannot be seriously claimed that it was necessary to deport these accused in order to induce them to talk - a method of eliciting the truth which, to our knowledge, is not recognized by the Code of Criminal Procedure. In any case, the attitude of the accused on first questioning cannot justify any presumption regarding his future conduct.

It would serve no purpose to reply that, not having been retained in writing as Counsel by those imprisoned at Mokolo, we have no right to concern ourselves with their fate. In the first place, the friends and families of most of them are constantly telling us of their distress and begging us to do our utmost to bring this banishment to an end. Secondly, there is every indication that by completely isolating the prisoners from the outside world, this banishment deprives them of all means of knowing what they are entitled to by way of defence.

We beg you to take the drastic action called for in the circumstances. We have the honour to be, etc."

This letter needs no comment. We may add, however, that long after its despatch nothing had been done to put an end to the scandalous banishment to Mokolo of a large number of accused, whose fate is the subject of well-grounded apprehension.

III. CONDUCT OF THE JUDICIAL ENQUIRY

The accused will be seen to fall into three main categories.

1. Survivors of the firing

Dozens of people were killed or wounded by the police firing during the events of May 1955. Since no further action can be taken against the dead, proceedings have been instituted against all the wounded, without exception. The fact of having been wounded during the incidents constitutes a sort of presumption of guilt leading automatically to imprisonment. Citizens who went to hospital of their own free will for treatment are arrested on recovery.

2. Those who have been denounced

Many citizens have been imprisoned merely on the vague denunciation of a few individuals who turn up again and again in almost all cases and seem to play the part of professional witnesses. These individuals often belong to one or two political organizations with no real support from the population but enjoying much favour in administrative quarters. These gentlemen, apart from being political opponents of the accused, are for the most part highly suspect from the moral standpoint. Nevertheless, the judicial authorities have placed the greatest trust in them hitherto and it is often on their allegations alone that the prisons have been filled.

To give an idea of the worth of the accusations made by these individuals, let us cite the case of Mr. FINES, assistant station-master at Douala. The latter was taken to the police station and held for several hours after being denounced by a so-called witness as having taken part in a riot in which he, according to the witness, had been seen haranguing the rioters and inciting them to violence. / Mr. FINES had the good fortune to be able to produce European witnesses to testify that at the time of the alleged events he was at his place of work. Clearly, this stroke of luck cannot befall the African accused, who can rarely find European witnesses on their behalf.

Regarding these first two categories of accused, the presumption of innocence which they should enjoy under the Constitution is a dead letter. Most of the accused have to wait long weeks before they are interrogated. By a strange transposition of the principle of onus of proof, they are summoned not only to prove their innocence but also to produce an alibi and they have to provide a detailed account of how they spent their time by day and by night during the whole of the last week of May 1955. Hundreds of accused are rotting in prison, victims of a judicial inquiry conducted on principles diametrically opposed to those of our Code of Criminal Procedure.

3. The alleged instigators

The third category of accused are those citizens who are not even accused of having taken any physical part in the events, but only of being the alleged instigators. Jacques N'GOM and Hyacinthe M'PAYE, for instance, have provided the most specific evidence of the fact that they were not at any place where the incidents occurred. They are nevertheless accused of being accomplices or

instigators of the acts attributed to the other accused. Yet they cannot honestly be accused of any of the acts constituting complicity within the meaning of the Criminal Code. If they are accused, together with the other leaders of the UPC and the Union des Syndicats whom the authorities have failed to arrest, everything suggests that it is with the sole object of destroying the organizations whose disappearance has long been desired by the Administration. It is absurd to suggest that such leaders, whose level-headedness is acknowledged even by their opponents, should for one moment have entertained the idea of organizing the rebellion of an unarmed population against a power with every modern military resource at its disposal. The very absurdity of this idea makes it all the more likely that the idea was to use, and if necessary provoke, certain incidents as a pretext for launching a vast operation by the police and judicial authorities against political opponents.

IV. PRISON CONDITIONS

We know nothing of prison conditions at Mokolo but have already given our reasons for entertaining misgivings in that connexion. As for the prisoners at Yaoundé and Douala, they all complain of insufficient food and the absence of any sanitary facilities. They also complain of having nothing whatever to read.

An application submitted by Maître CACHIN-JACQUIER and Maître MATARASSO for the Douala prisoners to be treated as political prisoners - most of them being accused of threatening the internal security of the State, a political offence if ever there was one - has not even been acknowledged.

Finally, we cannot fail to mention the scenes of brutality at Douala prison on Saturday, 25 June, against which Maître MATARASSO lodged a protest on the morning of Sunday, 26 June, confirming it in writing the next day. The prisoners were subjected to organized beatings, the alleged ringleaders receiving up to a hundred blows. An inquiry was opened as a result of this protest, but everything leads us to fear that the torturers will remain unpunished.

V. GENERAL SITUATION

The picture of political repression in the Cameroons would not be complete without some reference to the general atmosphere in which it is taking place.

(1) The UPC and the other disfavoured organizations are deprived of all means of expression, at a time when they are exposed to an unbridled campaign of defamation and insults in which official circles often join. The UPC, its leaders and its friends, are continually being accused in newspaper articles and speeches of the most heinous crimes. Immediately after the incidents, the High Commissioner lost no time in presenting the Territorial Assembly with an account of the events which received wide publicity in the press, an account bristling with untruths which can easily be refuted. Such action was easy for him, knowing as he did that he ran no danger of contradiction, for the Assembly, which nevertheless includes many friends of the Administration, has, as its President ruefully pointed out, no power to deliberate on such matters.

(2) The warrants for the arrest of the UPC leaders were posted up in certain regions and couched in terms which constitute a veritable invitation to hunt them down like wild beasts. We would cite in particular the notice dated 30 May 1955 posted up at Sangmelima by Mr. HUBER, the Chief Regional Officer, in which he not only anticipates the findings of the judicial inquiry but threatens with legal proceedings any person merely failing to report the presence of passage of one of the "agitators". That this appeal to hunt men down has yielded no results is undoubtedly due, not to any lack of violence in its language, but rather to the friendly feelings of the vast majority of the population towards the UPC leaders.

(3) During their stay in the Cameroons, Maître CACHIN-JACQUIER and Maître MATARASSO have received countless letters and statements from widely scattered parts of the Territory, reporting all sorts of excesses against local leaders or mere supporters of the UPC. Almost invariably, their huts are destroyed and their property pillaged. Sums of money are often demanded, under threat of denunciation, by some of the gentlemen who specialize in filling the prisons.

It is hardly surprising, then, that in this atmosphere of misrepresentation, excesses and manhunts, so many citizens of the Territory have taken refuge in the bush. The state of insecurity is such as perfectly to justify such a course.

CONCLUSIONS

If the French judicial authorities in the Cameroons wish to conduct an unbiased inquiry into the events of May 1955, if their sole concern is to reveal the truth, regardless whom that truth may embarrass - which is the sacred duty of any impartial system of justice - they must:

1. release on bail those at present in prison;
2. register the appeals lodged by all those who were summarily and hastily convicted, leaving it to the court of trial to judge of the validity of the appeals;
3. remove all obstacles to a free choice of counsel and allow the counsel chosen full use of their rights;
4. make a serious investigation of most of those who are at present helping to fill the prisons, recording and checking everything that the accused may allege in their connexion;
5. bring Mr. Roland PRE, the High Commissioner, and his chief collaborators, face to face with Mr. Jacques M'GOM and Mr. Hyacinthe M'PAYE and the main accused, in the presence of counsel. This hearing of both sides together might do a great deal to bring out the truth regarding the origin and course of the incidents. This is something which the judicial authorities cannot refuse, or the High Commissioner avoid, without giving the impression that such meeting of both sides might prove embarrassing to the Administration.
6. adhere strictly to the basic principles governing criminal inquiries.

Unless it gives satisfaction on all these points, the judicial inquiry cannot fail to seem biased and arbitrary. The cases now being handled are a historic test for French justice in the Cameroons. Many things will depend on the way in which it acquits itself of its task. Hitherto there have been far too many indications to the Cameroonians that the Judiciary is hand in glove with the Executive. If the former is to retain its authority and not be compromised by appearing to be the handmaid of the Administration, there is no other course for it but to take the action called for in this memorial.

Paris, 30 July 1955.

(Signed) L. MATARASSO M.L. CACHIN-JACQUIER
Barristers at Law
