

His Excellency Paul Biya
President of the Republic of Cameroon
Unity Palace, Etoundi
P.O. Box 100
Yaoundé
Republic of Cameroon

May 25, 2018

Ref: Concern over the prosecution and conviction of Cameroonian human rights defender, Musa Usman Ndamba.

Your Excellency,

We, the undersigned 10 organizations write to express our grave concern over the prosecution and recent conviction of Cameroon human rights defender, Musa Usman Ndamba, in what strongly points to a case of judicial harassment at the behest of Mr. Baba Ahmadou Danpullo. On May 11, the Bamenda Court of First Instance presided over by Magistrate (Mr.) Justine Babila Tebid, convicted Mr. Ndamba of “criminal defamation” and sentenced him to six months in prison as well as a fine of FCFA 500, 000 (approximately 900, 00 USD).¹ Mr. Ndamba was also ordered to pay the legal costs of proceedings to the sum of FCFA 168 800 (approximately USD 300,00), failing which he would serve an additional 18 months in prison. Mr. Ndamba is currently detained at Bamenda Central Prison.

Numerous human rights groups and non-governmental organizations, including several that are undersigned here, have been closely following the case against Mr. Ndamba, and publicly raised concerns that this case is in retaliation for his human rights work.² Mr. Ndmaba is the National Vice President of the Mbororo Social and Cultural Development Association (MBOSCUDA), and for over thirty years, he has been advocating for the rights of the indigenous Mbororo-Fulani people of Cameroon. As a result of his work, Mr. Ndamba and other members of MBOSCUDA have come into direct conflict with Mr. Baba Ahmadou Danpullo, a wealthy businessman and member of the Central Committee of the Cameroon People’s Democratic Movement (CPDM), who is accused of encroaching on the communal lands used by the Mbororo-Fulani people to sustain their pastoral way of life, which is greatly dependent on their ability to use the land.³

¹ The People vs Musa Usman Ndamba and Adamu Sule Bairo, CFIB/0172/GCRIMCB/CO/2018.

² See the Observatory Urgent Appeal CMR 002 / 0613 / OBS 049.2, published on May 3, 2018.

³Think Africa Press, Cameroon Pastoralists Fight for their way of life, September 2013, available at http://ccsi.columbia.edu/files/2013/12/CORDES_cameroon.pdf

Indeed, the facts of this case and the manner in which it has been prosecuted, raise serious doubts about the legitimacy of the proceedings. This case was instituted in 2014 under Suit No. CFIBA/53c/PI/2014, where Mr. Ndamba was charged with propagation of false information, false oath, false report and defamation in terms of sections 304(1) and 305(1) of the Penal Code of Cameroon.⁴ The charges were however not entirely new and earlier in 2013, Mr. Ndamba, had faced the exact same charges based on the same allegations under Suit No. CIFBA/281C.2013.⁵ The 2013 case was however dismissed a year later, after the matter had been postponed several times due to the non-appearance of the complainant Mr. Baba Ahmadou Danpullo.⁶ Both of the cases alleged that sometime in May 2011, Mr. Ndamba authored an affidavit under the name Musa Adamu in support of an asylum application to the United States of America, which allegedly implicated Baba Danpullo in several human rights violations including torture and illegal seizure of land from the Mbororo people.⁷

Mr. Ndamba from the very beginning of these allegations, vehemently denied authoring the affidavit and that he had at any point assumed the name Musa Adamu. During Mr. Ndamba's trial, we understand that the lawyer, Mr. Akong Joseph who commissioned the affidavit in question, testified in open court that Mr. Ndamba was not the same person as Musa Adamu who appeared before him as the author of the affidavit. Furthermore, Mr. Ndamba at his trial also produced evidence including his birth certificate and marriage certificate showing that he had never changed his name or assumed the name of Musa Adamu. In addition, a witness Wajiri Buba also known as Mallam Gajere, testified in court that he has known Mr. Ndamba by his name, Musa Usman Ndamba for over 30 years. Despite this exonerating evidence, the court surprisingly found Mr. Ndamba guilty beyond a reasonable doubt of authoring the affidavit and consequently guilty of criminal defamation.

The complainant, Mr. Baba Ahmadou Danpullo not once appeared in court even though the case had over 60 hearings. Instead the court allowed into evidence an affidavit by Mr. Baba Ahmadou Danpullo. Mr. Ndamba was thus denied the opportunity to challenge the evidence by Mr. Baba Ahmadou Danpullo in breach of the equality of arms principle, recognized under international fair trial standards.⁸ We further note that even if Mr. Ndamba had authored the affidavit, his prosecution involves attaching criminal liability to defamation. The existence of criminal liability for defamation is a disproportionate sanction to the aim of protecting the reputation of others and in violation of the right to freedom of expression as guaranteed by the African Charter, the

⁴ See American Bar Association, Center for Human Rights Report , Abuse of the Legal System to Target Human Rights Advocates in Cameroon, An Analysis of the Criminal Defamation Suite No. CFIBA/53c/PI/2014 against Musa Usman Ndamba, August 2016, available at https://www.americanbar.org/content/dam/aba/administrative/human_rights/reportonjudicialharrasmentofhumanrightsdefendernusaumannndamba.authcheckdam.pdf

⁵ Id.

⁶ The People vs Musa Usman Ndamba, In the Court of First Instance Bamenda CFIBA/281C/2013, May 23, 2013

⁷ Mbufonzak Law Firm, Report on the most recent trial of Musa Usman Ndamba in the Court of First Instance of Bamenda, North West Region, Cameroon, January 6, 2015.

⁸ United Nations, Human Rights Committee, General comment No. 32, Article 14, U.N. Doc. CCPR/C/GC/32 (2007).

Universal Declaration of Human Rights and other regional and international human rights instruments.⁹ The African Commission has thus called for criminal defamation laws to be repealed, on the basis that they “constitute a serious interference with freedom of expression” (Resolution 169 of the African Commission on Human and people’s Rights).

It is gravely concerning that the allegations in relation to the asylum affidavit were raised shortly after MBOSCUDA had submitted a shadow report to the United Nations Human Rights Council which implicated Mr. Baba Ahmadou Danpullo in gross human rights violations against the Mbororo community.¹⁰ In a 2014 Annual Report the United Nations High Commissioner for Human Rights, the Secretary General also raised concerns that the criminal charges against Mr. Ndamba were in retaliation for his involvement in using the UN mechanisms.¹¹

Also concerning is that the above two mentioned cases against Mr. Ndamba by Mr. Baba Ahmadou Danpullo are not in isolation. For many years Mr. Ndamba has had to defend himself from other cases instituted by Mr. Baba Ahmadou Danpullo.¹² In 1996 Mr. Ndamba and several other members of MBOSCUDA faced criminal charges which were later dismissed for lack of prosecution.¹³ Again in 2002, Baba Danpullo filed criminal charges against Mr. Ndamba but the case was similarly dismissed for lack of prosecution. Although the cases were eventually dismissed, the cases suffered numerous postponements largely due to the non-attendance of Mr. Baba Ahmadou Danpullo. Not only were the delays in the proceeding a violation of Mr. Ndamba’s right to a speedy trial as guaranteed in Cameroon’s Constitution and several international human rights treaties¹⁴, but Mr. Ndamba unduly suffered the anxiety brought on by criminal proceedings, the disruption of his human rights work and family life as well as incurring legal costs in defending himself. As organizations working with defenders across the world, we often see cases like that of Mr. Ndamba’s, where defenders face fabricated charges. This has been particularly noted by the former United Nations Special Representative of the Secretary General on the situation of human

⁹ African Commission: “Resolution 169 on Repealing Criminal Defamation Laws in Africa” 48th Ordinary Session (2010), available at <http://www.achpr.org/sessions/48th/resolutions/169/>. The U.N. Human Rights Committee in its General Comment No. 34 (2011) at paragraph 47, has recommended that “States parties should consider the decriminalization of defamation and, in any case, the application of the criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty.”

¹⁰ See the Observatory Urgent Appeal CMR 002 / 0613 / OBS 049.1, published on March 15, 2018.

¹¹ Report of the Secretary General, Cooperation with the United Nations, its representatives in the field of human rights, UN A/HRC/27/38, paragraph 15.

¹² See American Bar Association, Center for Human Rights Report , Abuse of the Legal System to Target Human Rights Advocates in Cameroon, An Analysis of the Criminal Defamation Suite No. CFIBA/53c/PI/2014 against Musa Usman Ndamba, August 2016, available at

https://www.americanbar.org/content/dam/aba/administrative/human_rights/reportonjudicialharrasmentofhumanrightsdefendernusausmandamba.authcheckdam.pdf

¹³ See The People vs Musa Usman Ndamba & 3 Others, Suit No. BA/130c/95-96.

¹⁴ See Constitution of the Republic of Cameroon, 2008, which explicitly affirms Cameroon’s attachment to the fundamental freedoms enshrined in the Universal declaration of Human Rights, the Charter of the United Nations, The African Charter on Human and People’s Rights, and all duly ratified international conventions. See also International Covenant on Civil and Political Rights, Article 19, opened for signature Dec. 16, 1966, 99 U.N.T.S 17; African Charter on Human and People’s Rights, Article 9, opened for signature June 27, 1981, 1520 U.N.T.S 217. Cameroon ratified the African Charter in June 20, 1989 and acceded to the CCPR on June 28, 1984.

rights defenders, Hina Jilani, who highlighted that criminal prosecutions and judicial proceedings are often used to silence human rights defenders into discontinuing their work.¹⁵

Defenders play an important role in promoting and protecting the rights recognized under international human rights treaties, and help ensure that States respect economic, social, cultural, civil and political rights. The United Nations Declaration on the Rights and Responsibilities of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders), specifically recognizes the right that everyone, including human rights defenders, have to “discuss, form and hold opinions on the observance ... of all human rights ... and, through these and other appropriate means, to draw public attention to these matters...”¹⁶ The misuse of the criminal justice system to target Mr. Ndamba is in violation of Cameroon’s international obligation to respect, protect and promote the work of human rights defenders. Cameroon has an international obligation to ensure “the protection by the competent authorities of everyone, individually and in association with others, against any violence threats, retaliation, de facto or de jure adverse discrimination pressure or any other arbitrary consequence of his or her legitimate exercise of their rights”.¹⁷ Cameroon must thus take steps to strengthen the independence of the prosecuting authorities and the judiciary to ensure that these institutions are not misused to target human rights defenders in retaliation for their legitimate human rights work.¹⁸

In light of the above, the undersigned organizations with utmost respect, strongly urge the government of Cameroon to:

- a) Take the necessary steps to immediately and unconditionally release Mr. Musa Usman Ndamba from prison;
- b) Ensure that Musa Usman Ndamba’s treatment, while in detention, adheres to the conditions set out in the ‘Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment’, adopted by UN General Assembly resolution 43/173 of 9 December 1988;
- c) Take all necessary measure to guarantee the physical and psychological integrity and security of Musa Usman Ndamba;

¹⁵ UN Annual Report, report prepared by the Special Representative of the Secretary General on the situation of human rights defenders, A/56/341.

¹⁶The Declaration was adopted with broad support by the United Nations General Assembly in 199, UN Doc.A/Res/53/144, 8 March 1999. It represents a strong commitment by states to its implementation on the principles and rights enshrined in legally binding, key international human rights instruments such as the ICCPR and the African Charter. The Declaration represents a clear commitment by States to acknowledge, promote and protect the work and rights of human rights defenders around the world.

¹⁷ United Nations General Assembly Declaration on the Rights and Responsibilities of Individuals, Groups and Organs of Society to promote and Protect Universally recognized Human Rights and Fundamental Freedoms, UN Doc. A/Res/53/144, 8 March 1999, Article 12(2).

¹⁸ OSCE Guidelines on the Protection of Human Rights Defenders, (2014), paragraph 27. The guidelines are based on universally recognized standards and informed by key international human rights instruments.

- d) Ensure that in future, those who undertake to defend human rights, including members of MBOSCUDA, are able to carry out their legitimate human rights activities without fear of reprisals and free of all restrictions including judicial harassment; and
- e) Take legislative steps to repeal Cameroon's criminal defamation laws especially provisions that provide for imprisonment.

In view of Africa day, which marks the historic formation of the Organization of African Unity, we especially remind your Excellency of Cameroon's commitment to promote and protect human and peoples' rights as a member of the now African Union.¹⁹

We understand that Mr. Ndamba has appealed his conviction and that a hearing for his application for bail pending appeal is scheduled to be heard next week on Tuesday, May 29, 2018. Should the matter against Mr. Ndamba continue, we advise that we continue to monitor the proceedings to ensure that his due process rights are respected.

Sincerely,

Bar Human Rights Committee of England and Wales

Central Africa Human Rights Defenders Network (REDHAC)

Columbia Center on Sustainable Investment

Community Initiative for Sustainable Development (COMINSUD)

Cultural Survival

FIDH, under the Observatory for the Protection of Human Rights Defenders

Front Line Defenders

Minority Rights Group International

The Justice For All Campaign

World Organisation Against Torture (OMCT), under the observatory for the Protection of Human Rights Defenders

Cc United Nations Special Rapporteur on the Situation of Human Rights Defenders, Mr. Michel Forst.

¹⁹ Constitutive act of the African Union, https://au.int/sites/default/files/pages/32020-file-constitutiveact_en.pdf

African Commission Special Rapporteur on Human Rights Defenders, Professor Remy Ngoy Lumbu.

United Nations Special Rapporteur on the rights of Indigenous Peoples, Ms. Victoria Tauli-Corpuz.