

African Human Rights Commission Rules on Bakweri vs. Cameroun land case:

- **The Bakweri have a Strong Case Backed by History and Law**
- **The BLCC has the Mandate to Speak on Behalf of the Bakweri**
- **The BLCC and Cameroun should seek an “Amicable Settlement” of Land Dispute.**

Following its ratification by the Summit of the African Union, the *African Commission on Human & Peoples' Rights* has published its ruling on the matter of the Bakweri Land Claims Committee (BLCC) Vs Cameroon (Communication 260/2002) after a two-year delay.

In its ruling, the Commission sided with all the arguments put forth by the BLCC, disagreed with the objections of the Government of Cameroon, and called for an amicable settlement of the matter under its auspices.

It should be recalled that in September 20002, the BLCC filed a complaint under Articles 55, 56 and 58 of the African Charter on Human and Peoples' Rights concerning the violation of the land rights of the indigenous people of Fako division. In its complaint the BLCC had called on the Commission to recommend, among other things, that the government of Cameroon affirm the lands occupied by the CDC are private property; that the Bakweri be fully involved in any CDC privatization negotiations; and that ground rents owed to the Bakweri dating back to 1947 be paid to a Bakweri Land Trust Fund.

In its response the Government of Cameroon argued that the BLCC case be thrown out for the following reasons:

1. The BLCC has no right (*locus standi*) to speak on behalf of the Bakweri;
2. The BLCC case was imprecise and unclear;
3. The BLCC's case was insulting because it had cast suspicions and aspersions on the Cameroonian judicial system;
4. The UN Sub-Commission has already settled the case brought before the African Commission;
5. The BLCC did not exhaust local remedies as all the actions the BLCC took certainly do not correspond to remedies mentioned by the African Charter.

Dr. Dion Ngute, Minister-Delegate for Commonwealth Relations, held brief for Government while Professor Ndiva Kofele-Kale was lead counsel for Complainants, BLCC on behalf of the Bakweri people.

After examining the written and oral submissions of both parties, the Commission ruled as follows:

On the right of the BLCC to speak on behalf of the Bakweri:

The Commission ruled that the BLCC had the *locus standi* and is entitled to bring its case before the African Commission because “the counsel himself and the BLCC has been duly authorized, by a resolution of chiefs, to further the interests of the Bakweri, which fact has not been denied by the Respondent State.”

On claims that the BLCC has not proved its case:

On this point, the Commission again concluded that that Government's argument had no historical or legal basis: “... the African Commission had found [BLCC's] presentation/narration of violation of rights protected under the Charter to be sufficiently clear to be taken up by the Commission, and hence, finds the present objection of the Respondent State untenable.”

On calls that the BLCC should be thrown out for being insulting:

The Commission also rejected the Government's call that the case be thrown out for insulting the Cameroon judiciary: “... the African Commission finds that there is nothing in the various submissions of the Complainant

to warrant the invocation of Article 56(3) of the African Charter so as to declare the complaint inadmissible on the grounds of its being written in disparaging or insulting language. ... Accordingly, thus, the African Commission finds the Respondent State's objection per Article 56(3) of the African Charter unsustainable."

On Cameroon's insistence that the UN has already resolved the matter:

Once again, the Commission's findings were at odds with the Cameroon Government's position which it described as being unsustainable: "... the UN Sub-Commission did not decide on the merits of the case so as to warrant the discontinuance of the consideration of this matter by the African Commission ... Therefore, the African Commission holds that the Respondent State's allegation that the communication be declared inadmissible per the provision of Article 56(7) is unsustainable".

On the non exhaustion of local remedies:

On this point, the Commission concluded that in as much as the BLCC had presented compelling evidence with regards to the lack of independence of the Cameroon judiciary, it had nonetheless not tested its case before the said judiciary. The Commission was therefore reluctant to serve as a court of first instance even though the BLCC had presented a strong case on behalf of the people of Fako.

Mediation, the next phase:

On the basis of its findings, the Commission recommended that the BLCC and the Government of Cameroon "settle the matter amicably", and to this end, availed its good offices to both parties.

In a letter dated February 6, 2006, the Commission, in pursuance of its mediation efforts, requested that the BLCC inform the Commission of the status of its "interactions with Government of Cameroon in line with the recommendations of the African Commission to settle the matter amicably." It also requested that the BLCC forward "copies of any correspondence [email or letters] exchanged between BLCC and the Government of Cameroon in the context of commencing such a dialogue, which will be submitted to the African Commission later on."

Victory against all odds:

Although the Commission opted for the amicable settlement route, the BLCC and Bakweri position has been solidified by the Banjul ruling. Not only has the Commission unequivocally confirmed the BLCC's right to speak on behalf of the Bakweri on the land issue, it has also confirmed the legitimacy of the Bakweri land case. **The onus is now on the Government of Cameroon to prove to the African Union that it is willing to make a Good Faith attempt at the amicable settlement recommended by the Commission.**

It is worth recalling that although the Commission has no laid down law to supervise the implementation of its recommendations, it has the authority to call to order states that fail to implement these recommendations, and to even forward the matter to African Union Assembly.

Finally, the BLCC can still bring the case before the same African Commission again as long as it proves that local remedies are simply not available.

BLCC Communications Bureau

Appendix - Summary of Facts (Excerpt from the African Human Rights Commission Ruling)

1. The complaint is filed by the Bakweri Land Claims Committee (BLCC) on behalf of the Traditional Rulers, Notables and Elites of the indigenous minority peoples of Fako Division (the “Bakweri”) against the government of Cameroon.
2. The complaint follows the Presidential Decree No.94/125 of 14th July 1994 where the Government of Cameroon listed the Cameroon Development Corporation (CDC), which will allegedly result in the alienation, to private purchasers, of approximately 400 square miles (104,000 hectares) of lands in the Fako division traditionally owned, occupied or used by the Bakweri. The Complainant alleges that the transfer would extinguish the Bakweri title rights and interests in two-thirds of the minority group’s total land area.
3. The Complainant states that the land in question was seized from Bakweri landowners between 1887 and 1905 by German colonial occupiers, which was acknowledged by the British colonial authorities and the United Nations General Assembly (UN Document 189, paragraph 16) in November 1949, and that the land in question was bought back by the British Colonial Government following WWII, and declared ‘Native Lands’ and placed under the custody of the Governor of Nigeria to hold in trust for the Bakweri. In 1947, the lands were later leased to a newly created statutory corporation, the Cameroon Development Corporation (CDC) for a period of 60 years to administer and develop same until such time that the Bakweri people were competent to manage them without outside assistance.
4. The Complainant alleges that the Bakweri’s antecedent rights and interests to this land survived the change of sovereignty from the British Crown to the State of Cameroon. The Complainant states that the Bakweri title to this land has never been extinguished, confirmed by Cameroon’s 1974 Land Tenure Act 74-1 which states that land entered in the *Grundbuch* is subject to the right of private property, and that the lands held in trust were leased in 1947 for a period of 60 years to the CDC, until that time that the Bakweri people were competent to manage them without assistance, and that during this time the rents paid for the land were to be paid to the local councils in Fako division.
5. The Complainant alleges that the process of extinguishment set in motion by Decree No. 94/125, the privatization of CDC and with it the likelihood of transferring Bakweri private lands to third parties is in violation of the Bakweri people’s right to private property and the freedom to dispose of their wealth and natural resources, which are guaranteed in the African Charter. The Complainant further alleges that this process is being carried out without any discussion of fair compensation for the Bakweri in a violation of the African Charter and Cameroon’s own Constitution.
6. The Complainant alleges that the concentration of private Bakweri lands in non-native hands undermines the Bakweri people’s right to development, by irrevocably altering existing land holding arrangements and pattern of natural resource exploitation and by forcing a future exodus of the Bakweri population to other parts of Cameroon who will need to relocate for more land for their agricultural and development needs, and thereby risk aggravating social tensions. The Complainant further alleges that the Government of Cameroon has adopted a discriminatory approach toward the Bakweri that has totally lacked in fundamental fairness and has failed to include proper representation of the Bakweri stakeholders in the negotiations with regard to the future of the CDC.