

**071604056 [2007] RRTA 303 (15 November 2007)**

**DECISION RECORD**

**RRT CASE NUMBER:** 071604056

**DIAC REFERENCE(S):** CLF2007/86583

**COUNTRY OF REFERENCE:** Cameroon

**TRIBUNAL MEMBER:** James Silva

**DATE DECISION SIGNED:** 15 November 2007

**PLACE OF DECISION:** Sydney

**DECISION:** The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act, being a person to whom Australia has protection obligations under the Refugees Convention.

## **STATEMENT OF DECISION AND REASONS**

### **APPLICATION FOR REVIEW**

This is an application for review of a decision made by a delegate of the Minister for Immigration and Citizenship to refuse to grant the applicant a Protection (Class XA) visa under s.65 of the *Migration Act 1958* (the Act).

The applicant, who claims to be a citizen of Cameroon, arrived in Australia and applied to the Department of Immigration and Citizenship for a Protection (Class XA) visa. The delegate decided to refuse to grant the visa and notified the applicant of the decision and his review rights by letter.

The applicant applied to the Tribunal for review of the delegate's decision.

The Tribunal finds that the delegate's decision is an RRT-reviewable decision under s.411(1)(c) of the Act. The Tribunal finds that the applicant has made a valid application for review under s.412 of the Act.

### **RELEVANT LAW**

Under s.65(1) a visa may be granted only if the decision maker is satisfied that the prescribed criteria for the visa have been satisfied. In general, the relevant criteria for the grant of a protection visa are those in force when the visa application was lodged although some statutory qualifications enacted since then may also be relevant.

Section 36(2)(a) of the Act provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia to whom the Minister is satisfied Australia has protection obligations under the 1951 Convention Relating to the Status of Refugees as amended by the 1967 Protocol Relating to the Status of Refugees (together, the Refugees Convention, or the Convention).

Further criteria for the grant of a Protection (Class XA) visa are set out in Parts 785 and 866 of Schedule 2 to the Migration Regulations 1994.

#### **Definition of 'refugee'**

Australia is a party to the Refugees Convention and generally speaking, has protection obligations to people who are refugees as defined in Article 1 of the Convention. Article 1A(2) relevantly defines a refugee as any person who:

owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.

The High Court has considered this definition in a number of cases, notably *Chan Yee Kin v MIEA* (1989) 169 CLR 379, *Applicant A v MIEA* (1997) 190 CLR 225, *MIEA v Guo* (1997) 191 CLR 559, *Chen Shi Hai v MIMA* (2000) 201 CLR 293, *MIMA v Haji Ibrahim* (2000) 204

CLR 1, *MIMA v Khawar* (2002) 210 CLR 1, *MIMA v Respondents S152/2003* (2004) 222 CLR 1 and *Applicant S v MIMA* (2004) 217 CLR 387.

Sections 91R and 91S of the Act qualify some aspects of Article 1A(2) for the purposes of the application of the Act and the regulations to a particular person.

There are four key elements to the Convention definition. First, an applicant must be outside his or her country.

Second, an applicant must fear persecution. Under s.91R(1) of the Act persecution must involve “serious harm” to the applicant (s.91R(1)(b)), and systematic and discriminatory conduct (s.91R(1)(c)). The expression “serious harm” includes, for example, a threat to life or liberty, significant physical harassment or ill-treatment, or significant economic hardship or denial of access to basic services or denial of capacity to earn a livelihood, where such hardship or denial threatens the applicant’s capacity to subsist: s.91R(2) of the Act. The High Court has explained that persecution may be directed against a person as an individual or as a member of a group. The persecution must have an official quality, in the sense that it is official, or officially tolerated or uncontrollable by the authorities of the country of nationality. However, the threat of harm need not be the product of government policy; it may be enough that the government has failed or is unable to protect the applicant from persecution.

Further, persecution implies an element of motivation on the part of those who persecute for the infliction of harm. People are persecuted for something perceived about them or attributed to them by their persecutors. However the motivation need not be one of enmity, malignity or other antipathy towards the victim on the part of the persecutor.

Third, the persecution which the applicant fears must be for one or more of the reasons enumerated in the Convention definition - race, religion, nationality, membership of a particular social group or political opinion. The phrase “for reasons of” serves to identify the motivation for the infliction of the persecution. The persecution feared need not be *solely* attributable to a Convention reason. However, persecution for multiple motivations will not satisfy the relevant test unless a Convention reason or reasons constitute at least the essential and significant motivation for the persecution feared: s.91R(1)(a) of the Act.

Fourth, an applicant’s fear of persecution for a Convention reason must be a “well-founded” fear. This adds an objective requirement to the requirement that an applicant must in fact hold such a fear. A person has a “well-founded fear” of persecution under the Convention if they have genuine fear founded upon a “real chance” of persecution for a Convention stipulated reason. A fear is well-founded where there is a real substantial basis for it but not if it is merely assumed or based on mere speculation. A “real chance” is one that is not remote or insubstantial or a far-fetched possibility. A person can have a well-founded fear of persecution even though the possibility of the persecution occurring is well below 50 per cent.

In addition, an applicant must be unable, or unwilling because of his or her fear, to avail himself or herself of the protection of his or her country or countries of nationality or, if stateless, unable, or unwilling because of his or her fear, to return to his or her country of former habitual residence.

Whether an applicant is a person to whom Australia has protection obligations is to be assessed upon the facts as they exist when the decision is made and requires a consideration of the matter in relation to the reasonably foreseeable future.

## **CLAIMS AND EVIDENCE**

The Tribunal has before it the Department's file relating to the applicant. The Tribunal also has had regard to the material referred to in the delegate's decision, and other material available to it from a range of sources.

### **Primary application**

According to his protection visa application, the applicant is a male national of Cameroon, born in City A. He later identifies his home town as Town A. He speaks English and French. He gives his ethnicity as Bantu (Highland) and his religion as Catholic.

The applicant completed many years of education, mainly in City A, followed by a few more years at a University. He was employed in an unspecified business.

The applicant was widowed. His parents and his children, remain in Cameroon. He is in contact with his sibling in Country A by telephone and e-mail.

The applicant entered Australia. He used a Cameroon passport issued in City A, valid for 5 years. He states that he had to pay bribes to obtain the passport. He has previously visited Countries B, C and D, seeking 'refuge' in each place. Elsewhere, however, he writes that he has never sought 'refugee status' in any other country. He also visited another country, implicitly to arrange the extension of his Country D visa. He lived for several months in Country D.

The applicant last left Cameroon legally.

The applicant sets out his refugee claims in handwritten responses to questions 41-44 on Form 866C ('your reasons for claiming to be a refugee') and in a lengthy typed statement attached to the application form.

- The applicant fears that the secret (Francophone) police will harass and torture him, and imprison him. The police, the military as well as the militants of the Cameroon People's Democratic Movement (CPDM) will also harm him. He states that anyone who opposes the President faces a fine, as well as imprisonment.
- They will do this because he is an opposition activist who organised demonstrations against the current regime.
- He states that 'anyone going back as a result of deportation will be jailed automatically'.
- The applicant states that 85% of the authorities come from the ruling CPDM party, so they will pursue him. Others simply want to look after their own interests.

The applicant provides more detail in a lengthy typewritten statement which is difficult to follow. The Tribunal's summary is below:

- The applicant's political profile: -

- His parents joined the SDF. This was the main opposition party, and it was the only party to support the rights of Cameroon’s English-speaking people. They attended meetings and rallies. The applicant’s older sibling also became involved at high school.
  - The applicant’s interest was galvanised in a particular year, when the authorities killed his best friend for refusing to reveal where his relative, an SDF militant, was. He joined the party’s youth chapter.
  - He then joined the SDF proper. The applicant gives his membership card number. He later led the SDF youth branch in Town A.
- The police arrested the applicant and a friend while they were having coffee. They detained them for a few days, on suspicion of having taken part in a political demonstration. The police held them in substandard conditions, harassed and tortured them, ‘as seen from my medical book.’
  - The applicant later became an official of a local SDF ward. This meant communicating the party message to people, and forming various groups.
  - The applicant and others were returning from a district rally when a few men stopped them. They slapped his father and took the applicant and colleagues to a police post. Person A was there. The applicant and the others were detained, tortured and mistreated. They were then taken to City A. These agents held the applicant for a few weeks. They tortured him, again in substandard conditions. An international organisation arranged his release.
  - The applicant found out that his parents had also been tortured and humiliated.
  - The applicant continued his political activities nonetheless.
  - The police broke up a political rally that the applicant was attending. They held him for a few months, and tortured him. The applicant saw many people die as a result of torture. The authorities once again harassed his parents while he was in prison. The applicant spent a few weeks in hospital after this.
  - The applicant decided to discontinue his political activities for a while. However, during protests rallies, he experienced further intimidation and torture.
  - An SDF leader wrote to the applicant asking him to attend an organisational meeting to prepare for a protest. The applicant agreed, albeit nervously.
  - Just after the start of the meeting, the military police came and arrested participants, including the applicant. They detained him again. Police and fellow prisoners assaulted him.
  - Person A, telephoned him shortly after his release. He warned the applicant that the authorities had been monitoring him, and that the security agencies had identified him as an opposition leader who had been mobilising youth. He offered the applicant inducements to stop his campaign, and threatened him if he did not.
  - A few weeks later, the applicant and others organised a rally. The authorities attacked the rally. A number of people died. The applicant was among many who were arrested. He was held for a few months. Some of these people died in custody. The applicant experienced torture.
  - While in custody, the applicant’s parents told him that their house had been vandalised. Two Catholic priests and some human rights activists arranged for the applicant’s release.

- The applicant went to Town B to help with party activities, hoping it would be safer there. However, the applicant's mother contacted him to say that she had been suspended from work.
- The authorities harassed the applicant and others while they were protesting at the residence of an MP about election rigging. He (the MP) sent his thugs out, and they locked the applicant and his colleagues up. SDF militants secured their release. On the way home, the MP's thugs again attacked the SDF group, killing the district chairman. The applicant was injured and was taken to hospital, and later to a Catholic mission.
- The applicant then fled to Yaounde.
- The applicant joined the SCNC, after realising in Yaounde that the SDF was 'betraying our trust by merging with the government.' He notes that the government considered the SCNC illegal because it advocates secession. The police arrested the 'majority of us', and held them for a few weeks. They were again tortured and mistreated, held in unacceptable conditions and subject to fabricated charges. Pressure from the international community led to their release.
- The applicant's family experienced ongoing harassment during this period.
- A fortnight later, the police searched the applicant's apartment. They arrested and again mistreated him, because they found SCNC material in his apartment. A former school friend, in Yaounde, helped secure the applicant's release.
- The applicant went to Country B. In his absence, the security forces kept pressure up on his family. His sibling fled for Country A, where asylum was sought. The applicant, worried about his family, returned to Cameroon some time later.
- The applicant attended a secret SCNC ceremony in another city. Government forces stormed the meeting and killed a party member. The applicant managed to escape.
- The following day, he learned that the chief of secret police had issued an arrest warrant against the applicant. The SCNC leadership put the applicant in touch with someone who was a member. He arranged for his flight to Country C.
- The authorities continued to harass and torture the applicant's family while he was in Country C. A member of the applicant's family died, as a result of torture inflicted, aimed at finding out the applicant's whereabouts.
- The applicant states that he was at a loss as to where to go, but finally managed to get to Country D. A friend helped him set up a business there. However, even there, government representatives on business and French-speaking Cameroonians continued to threaten him. He therefore took the opportunity to come to Australia.

The applicant attended a Department interview. A copy of the audio recording is on file, and the Tribunal has had regard to it.

At the interview, the applicant provided a number of documents, copies of which are on file. These are: -

- Membership cards: - dated.
- Photographs, annotated to indicate his parents next to a burnt-out structure, one of a rally (with the applicant's back to the camera) and of his family members funeral funeral.

- Drug program card, with various entries that appear to relate to poor diet and general complaints. A comment includes the words ‘all due to police detention in the cell for [number] weeks.’

The delegate refused the application, noting in particular country information about the treatment of elected SCNC leaders showed that they had been intimidated, but eventually released. She reasoned that it was therefore difficult to imagine why the applicant, who had no ‘political or public profile, even at a local level’, was subject to such sustained mistreatment. The decision noted also the prevalence of document falsification in Cameroon. The delegate considered the treatment of failed asylum seekers on their return to Cameroon. Country information indicated that the police would question returnees. Although the SCNC-Ayamba faction claimed that Anglophone asylum seekers were routinely detained, UNHCR and other sources stated that they were not aware of such cases, and the SCNC itself had been unable to provide any specific instances.

### **Review application**

The review application contains no new claims or information.

### ***Written submissions***

During the course of the review, the Tribunal received the following written submissions and documentation:

- A handwritten letter from the applicant’s mother, to him in Country C. It bears the same date as the death of the applicant’s family member. The letter asks the applicant about his arrival in Country C and his health, then proceeds to discuss his family member’s torture and death, and the funeral arrangements. It emphasises the danger to him should he return to Cameroon, and the need for him to exercise caution in communicating with the family.
- An attestation from SDF officials, on photocopied paper, undated, confirming the applicant’s SDF membership, and supporting his ‘exhaustive catalogue of events, repression and oppression targeting him and the people of Southern Cameroons’.
- A court declaration concerning the death of the applicant’s family member.
- Photographs, some in which the applicant appears visible. His shirt has the same pattern as that worn by other men and women, some of whom are also wearing SDF t-shirts. In one photograph, he is standing besides a portrait of John Fru Ndi.
- Various internet articles, including from the SCNC website and various NGO and media sources (UNPO, Voice of America). One of these (delivered on a certain date) is a SCNC report that the security forces arrested 11 activists in one town, to prevent a celebration of an SCNC anniversary.
- A Country D police clearance.

### ***Tribunal hearings***

The applicant attended two Tribunal hearings. The hearing was conducted in English, which the applicant identified as his main language. The applicant was unrepresented in this matter.

There were some occasions in which the Tribunal did not readily understand the applicant’s expression or his train of thought, and it took the opportunity to clarify these were necessary. The Tribunal found much of his evidence discursive, and he appeared at least on some

occasions to avoid questions about his personal experiences in Cameroon and other countries by reverting to generalised statements about the Cameroon authorities and their agents. The summary below is the Tribunal's consolidated summary of the applicant sometimes disjointed evidence over 2 hearing sessions.

The applicant confirmed that he fears persecution from the Cameroon authorities if he returns to Cameroon, as an activist in the SCNC (and previously, the SDF) who has a profile of past activism and as a failed asylum seeker. Throughout the hearing, the applicant referred to the autocratic nature of the Cameroon government, the lack of freedom of speech and the abuse of human rights.

The applicant gave details of his place of birth, in City A, where his family still live, and its location. He said that he went to school in Town A, went to Yaounde because of his 'political problems'.

The Tribunal noted that the applicant moved to Yaounde around the same time as he joined the SCNC, even though the SCNC's area of influence was centred in the area from which he had come. The applicant said that he was an official of the party's in Yaounde, and his role was to organise rallies, arrange meetings in people's homes and 'sensitise' people to SCNC politics. The Tribunal noted that it had been unable to find any reference at all to the applicant's name. This appeared surprising, given the extensive publication of other activists' names and, of course, in light of his role. The applicant explained that he was an official in Yaounde I, an English-speaking area, not the city as a whole. It was therefore a local role, albeit one that placed him at risk.

The applicant said that his father was a labourer, and his mother had worked as a clerk until the authorities suspended her salary.

The Tribunal asked the applicant how he financed his life in Cameroon, given his claim to hold a localised position in a dissident political group. The applicant said that he had graduated in Town A. It had been difficult to obtain the diploma, and then difficult to find employment in the public sector. He linked this with his political profile and activities, as he faced discrimination. Pressed for information as to his actual source of income, the applicant said that he taught classes on a casual basis and also received funds from the SDF and SCNC. The Tribunal asked for details about how these parties, pursuing a separatist agenda, managed to employ local officers. The applicant said that they received remittances from supporters abroad, and also used UN funds. (He claimed that the UN 'subsidised' the parties.) The applicant said that he had looked for work in both Yaounde and Douala, without success. The Tribunal observed that it seemed plausible that he had gone to these places looking for work. However, it noted that the inability to find a government job in a particular location (Town A) did not amount to persecution, and the applicant's account of his move to Yaounde appeared more consistent with a search for employment or business opportunities than a genuine flight from persecution.

The applicant described, among other things, his presence in Town B, when Fon (traditional ruler) Doh Gay Gwanyin III killed the SDF District Chairman John Kohtem. He gave a detailed account of this incident, although it differed from some of the reported descriptions on issues such as where exactly the killing occurred.

The applicant confirmed that he fled to Country B, because of the stress of repeated harassment. However, he was concerned not to abandon his family, so he returned to

Cameroon. With respect to his sibling in Country A, the applicant said that, like all family members, his sibling supported the SDF but was not an office bearer. He later indicated that his sibling went to Country A not to flee persecution (as implied in the applicant's written statement), but for other reasons.

The applicant provided information about the alleged ceremony in Douala that led to an arrest warrant being issued against him and his flight from Cameroon. Although he said that was a significant date for the SCNC to hold such events, the applicant did not appear to know of any reason why there was a ceremony on this particular day. The Tribunal noted that it had found no public reference to such an event, which was surprising given the publicity surrounding similar occasions.

The Tribunal took evidence on other aspects of the applicant's claims, including the alleged killing of his family member. The applicant was upset in recalling this incident, but shed little light on why he had, for instance, left for Country B and then returned to Cameroon. He said that the government authorities, particularly Person A acting locally, had bothered his family over time.

The Tribunal discussed with the applicant, at length, past and present SDF and SCNC personnel, and other political figures in Cameroon. The applicant claimed to have had personal contact with a number of high ranking official figures, such as Person A. Person A had a particular adverse interest in him because he saw the dissident activities in Town A as a threat to his political ambitions. The applicant referred with ease to a number of political figures, but appeared to have difficulty writing their names with confidence or consistently. Furthermore, it became evident that, although he presented material recently downloaded from the internet, his knowledge of current SDF and SCNC personnel and developments was patchy.

The Tribunal flagged its concern that the applicant's patchy knowledge might cast doubt on whether he had in fact held any such position whilst in Cameroon. It also noted that his current interest in opposition politics in Cameroon was scant, and that he had made no apparent attempt to contact any SCNC activists or support groups outside Cameroon. This was surprising, given his evidence that party members were reliant on funds and support from abroad.

The Tribunal asked the applicant about his stay in other countries. He said that he had lived on the street in Country C, but then 'found a friend'. He said that he had opened a business there, financed by a friend who had also helped with the documentation for his Australian visa application. This person is his girlfriend. The applicant emphasised that he had had difficulties securing visas for Country D, having to re-apply outside the country, and that he did not feel safe there. He repeated his claim that Cameroon officials threatened him there. Pressed for more detail, he retreated somewhat, and said that French Cameroonians in Country D tried to undermine his business. He did not feel that Country D authorities would respond to any complaints, given his immigration status there.

The Tribunal asked if the applicant had sought protection in Country D or Country C. He indicated that he did not approach the Red Cross. He said, with some hesitation, that he went to what the UN office a few weeks after arriving in Country D. He was given a form to complete as well as a telephone number; at the second session, the applicant said that he received a receipt. He heard from some other Africans – that Country D does not provide. He believed that some others had obtained UN documents, but had been treated poorly in

Country D. He gave the Tribunal to understand that he did not follow up and enquire about possible protection in any third country.

The applicant said that he had tried to leave Cameroon for Country A, to attend a Cameroon-related Convention organised by an SDF Youth Branch. Country A authorities had not granted him a visa. The Tribunal asked whether he had made further contact with these people while living in other countries, to seek their assistance or guidance, or to offer them his support. The applicant said that he did not know their contact details, as it had been organised by party's branch in City A. Further discussion revealed that the applicant had made no efforts to contact any SDF or SCNC contacts since leaving Cameroon.

The applicant said that he has had no direct contact with his family in Cameroon in recent years. His mother had advised him after he arrived in Country C that he should avoid direct contact, as this could endanger them. Instead, he communicates them via his sibling in Country A. His sibling was able to arrange for family members to obtain documents on his behalf.

The applicant emphasised the letter from his mother, that he presented to the Tribunal. In it, she urges him not to contact him directly. The Tribunal observed that it was written on the day of the death of the applicant's family member, and just shortly after his arrival in Country C. It asked the applicant how, if he landed in Country C with contacts or shelter, he had provided his mother with an address for correspondence. The applicant struggled to explain this, stating vaguely that he had managed to obtain an address where letters could be sent.

The applicant spoke to the further documents that he had provided to the Tribunal, which he had obtained through his sibling in Country A and via e-mail from another friend.

The Tribunal undertook to examine carefully the documentation that the applicant had provided to support his claims. It noted country information about the prevalence of document fraud in Cameroon, including specifically in relation to SDF and SCNC documentation. The applicant said that he did not believe this was true. It might apply in relation to the French-speaking part of Cameroon, but did not affect his documentation.

The applicant confirmed that, because of his profile as a former political activist and government critic, he would also be targeted on his return as a suspected asylum seeker. He said that the government was bent on eliminating all forms of opposition.

The Tribunal took evidence at the session from Person B, the applicant's friend. He said that he knew the applicant for many years, when they were both involved with the SDF. They had not been in contact for a long time, but met up in Sydney through word of mouth in the African community. Person B said that he and the applicant did not discuss politics, and he did not have personal knowledge of the applicant's activities.

Following the hearing, the Tribunal contacted the applicant to seek his permission to try to make contact with the SDF and the SCNC, to verify the membership cards that he had presented. The applicant readily agreed to this suggestion. The Tribunal's attempts to reach the respective headquarters by telephone and e-mail have not succeeded.

## **External Information**

The Tribunal has had regard to reference material from a wide range of sources with reference to human rights generally in Cameroon, the situation for activists in the main Anglophone parties SDF and SCNC, and the treatment of failed asylum seekers.

### ***Background and Human Rights Overview***

The United States *Country Report on Human Rights Practices – Cameroon 2006* (State Department, 6 March 2007, see <http://www.state.gov/g/drl/rls/hrrpt/2006/78723.htm>, accessed on 12 November 2007) gives the following background on Cameroon. It paints a bleak picture of Cameroon's overall human rights record. Its summary follows:

Cameroon, with a population of approximately 17.3 million, is a republic dominated by a strong presidency. Despite the country's multiparty system of government, the Cameroon People's Democratic Movement (CPDM) has remained in power since it was created in 1985. In October 2004 CPDM leader Paul Biya won re-election as president. The election was flawed by irregularities, particularly in the voter registration process, but observers believed the election results represented the will of the voters. The president retains the power to control legislation or to rule by decree. He has used his legislative control to change the constitution and extend the term lengths of the presidency. Although civilian authorities generally maintained effective control of the security forces, security forces sometimes acted independently of government authority.

The government's human rights record remained poor, and it continued to commit numerous human rights abuses. Security forces committed numerous unlawful killings; they regularly engaged in torture, beatings, and other abuses, particularly of detainees and prisoners. Impunity was a problem in the security forces. Prison conditions were harsh and life-threatening. **Authorities arbitrarily arrested and detained anglophone citizens advocating secession, local human rights monitors and activists, and other citizens.** The law provides for the arrest of homosexuals and persons not carrying identification cards. There were reports of prolonged and sometimes incommunicado pretrial detention and infringement on citizens' privacy rights. The government restricted citizens' freedoms of speech, press, assembly, association, and harassed journalists. The government also impeded citizens' freedom of movement. The public perceived government corruption to be a serious problem. Societal violence and discrimination against women; trafficking in persons, primarily children; discrimination against indigenous Pygmies and ethnic minorities; and discrimination against homosexuals were problems. The government restricted worker rights and the activities of independent labor organizations, and child labor, slavery, and forced labor, including forced child labor, were reported to be problems. (Tribunal emphasis added).

### ***Political Opposition – SDF and SCNC***

#### ***SDF (Social Democratic Front)***

The UK Home Office's Country of Origin Information Report for Cameroon, dated 28 August 2007, collates the following information on the SDF and its place within Cameroonian opposition politics. It is the country's opposition party, but has suffered from internal factionalism as well as pressure from the ruling party.

The SDF is the leading opposition party in Cameroon. It was founded in early 1990 and gained legal recognition in March 1991 after a year in which its anti-government rallies had frequently been subject to official repression. The party contested legislative elections in 2002, but managed to win only 22 seats, compared to 43 seats in the previous election. Despite the losses the party remained in firm control of the English speaking North West Province, where 19 candidates won seats.

The Political Office, BHC Yaounde, comment that the SDF has been rocked by dissidence since 1994 with many founders complaining about the dictatorial rule of the Chairman Fru Ndi, The latest conflict led to the organisation of separate conventions in May 2006 and violence resulting in the death of one person. Two factions emerged but the state finally recognised the Fru Ndi one.

AllAfrica.com, in an article dated 30 October 2006, supports this, saying:

“From last 26 May, Barrister Bernard Muna elected at the Yaounde convention is claiming to be the legal and legitimate SDF National Chairman, while Ni John Fru Ndi elected in City A claims to be the only National Chairman of the SDF... Hon. Ngwasiri Clement on the heat of the primaries and run up to the SDF national convention of 26 May 2006, during a press conference in Yaounde last 13 February, declared that he had taken over control of the party... Meanwhile, last 26 September, the Mezam High Court gave a judgement on the case tabled before it by the Fru Ndi faction of the SDF. Justice Emile Ambo Ezieh ... ordered SDF faction leader, Barrister Bernard Muna to desist from parading himself as the SDF National Chairman as well as warned Hon. Ngwasiri, his agents and supporters from organising meetings and acting on behalf of the SDF.”

### *SCNC (Southern Cameroon National Council)*

The SCNC, a separatist movement, was established in 1995 to campaign for the establishment of an independent republic in Anglophone Cameroon. (*Political Parties of the World*) According to the *Political Handbook of the World: 2007*, the SCNC is the leading vehicle for increasingly vociferous expression of secessionist sentiment in the former British Cameroons region. (Banks, Arthur S., *et al.* 2007, *Political Handbook of the World: 2007*, CQ Press, Washington DC, p.203; *Africa South of the Sahara 2003* 2002, Europa Publications, 32nd ed. London, p.152,165; Day, Alan J. (ed) 2002, *Political Parties of the World*, John Harper Publishing, 5th ed. London, p.84).

Sources indicate that the government considers the SCNC an illegal organization, yet it is unclear whether it has been formally banned. A *UN Integrated Regional Information Networks* article states that the government banned the group in 2001. The *BBC News* states that the SCNC has been declared illegal. The US State Department reported that the Cameroon government considered the SCNC to be an illegal organisation because it advocated secession which the law prohibited. Nevertheless, the group organises press conferences (which may be raided by security force) and rallies (which are often banned) – (‘Secessionist Minority Anglophone Group Silenced’ 2007, *UN Integrated Regional Information Networks*, 19 February, allAfrica.com website <http://allafrica.com/stories/printable/200702200499.html> – Accessed 29 August 2007; Country Profile: Cameroon’ 2007, *BBC News*, 16 June [http://news.bbc.co.uk/2/hi/africa/country\\_profiles/1042937.stm](http://news.bbc.co.uk/2/hi/africa/country_profiles/1042937.stm) – Accessed 29 August 2007; US Department of State 2006, ‘Arrest and Detention’ in *Country Reports on Human Rights Practices for 2005 – Cameroon*, 8 March).

### *Treatment of SCNC Members*

The Cameroonian government’s abuses against secessionist activists, in particular SCNC members, has been identified as an area of concern by foreign governments and NGOs such as Amnesty International. The sources below indicate a diffuse picture. There are many

reports of arbitrary and pre-emptive arrests of SCNC leaders, members and supporters, although it appears that members and supporters are usually held only briefly.

The Australian Department of Foreign Affairs and Trade (DFAT) advised in May 2007 that Cameroon government officials consider the SCNC marginalized and to represent only a minority voice. They would not therefore suspect all southern Cameroonians of membership of or support for the SCNC on the basis of their residency in that area. DFAT considered it likely that the authorities would keep a list of all persons wanted for arrest, and that being a general SCNC member (and not necessarily holding a particular position within the organization) would be sufficient to establish this. DFAT has not been able to confirm this advice more recently, however. (DIAC Country Information Service 2007, *Country Information Report No. 07/42 – Cameroon: Southern Cameroons National Council (SCNC)*, (sourced from DFAT advice of 11 May 2007).

During 2006 security forces preemptively arrested approximately 70 leaders, members and supporters of the SCNC. Houses of officials and activists were put under surveillance, some leaders' houses were searched and meetings in private residences disrupted. On numerous occasions permission was not granted to hold rallies and meetings (US Department of State 2007, 'Elections and Political Participation' in *Country Reports on Human Rights Practices for 2006 – Cameroon*, 6 March).

In January 2007, some 20 members of the SCNC were arrested attempting to hold a press conference led by the group's vice chairman Nfor Ngala Nfor ('Secessionist Minority Anglophone Group Silenced' 2007, *UN Integrated Regional Information Networks*, 19 February, allAfrica.com website <http://allafrica.com/stories/printable/200702200499.html> – Accessed 29 August 2007)

In September 2006 the Prefect of Mezam Division in the North-West province banned all public meetings, rallies or gatherings of more than four persons and prohibited access to electronic media for any SCNC official or sympathiser (US Department of State 2007, 'Arrest and Detention', 'Political Prisoners', 'Freedom of Assembly' in *Country Reports on Human Rights Practices for 2006 – Cameroon*, 6 March).

Earlier reports indicate that during 2005, some 100 SCNC leaders, members and supporters were arrested. The majority of SCNC members arrested during the year were not charged with any crime and were released after brief detentions. However, police detained seven SCNC leaders for periods of up to three months. At the end of 2005 all seven remained in detention awaiting trial (US Department of State 2006, 'Arrest and Detention' in *Country Reports on Human Rights Practices for 2005 – Cameroon*, 8 March). In 2003, sources cited by the Canadian Immigration and Refugee Board indicate that the SCNC members were subjected to frequent arrests and arbitrary detentions (Immigration and Refugee Board of Canada 2003, *CMR41973.E – Cameroon: Treatment by the Cameroon government of persons who are not members or supporters of the Cameroon People's Democratic Movement (CPDM), and whether the government or members of CPDM attempt to forcibly recruit non-supporters (2001-2003)*, 17 September)

#### *Torture and Other Forms of Mistreatment*

The Tribunal has found numerous references to poor prison conditions, with security forces mistreating prisoners with apparent impunity. The US State Department 2006 Human Rights

Report on Cameroon (cited above) includes the following text, which also mentions 2 forms of physical abuse that the applicant claims to have suffered personally.

The constitution and law prohibit such practices; however, there were credible reports that security forces continued to torture, beat, and otherwise abuse prisoners and detainees.

In the majority of cases of torture or abuse, the government rarely investigated or punished any of the officials involved; however, in at least one case during the year, gendarmerie officers accused of torturing a citizen to death in 2005 were detained and investigated. [...]

Numerous international human rights organizations and some prison personnel reported that torture was widespread; however, most reports did not identify the victim because of fear of government retaliation against either the victim or the victim's family. Most victims did not report torture for fear of government reprisal or because of ignorance of, or lack of confidence in, the judicial system. [...]

Two forms of physical abuse commonly reported by male detainees were the "bastonnade," where authorities beat the victim on the soles of the feet, and the "balancoire," during which authorities hung victims from a rod with their hands tied behind their backs and beat them, often on the genitals.

Security forces reportedly continued to subject prisoners and detainees to degrading treatment, including stripping them, confining them in severely overcrowded cells, denying them access to toilets or other sanitation facilities, and beating detainees to extract confessions or information about alleged criminals. Pretrial detainees reported that they were sometimes required, under threat of abuse, to pay "cell fees," a bribe paid to prison guards to prevent further abuse.

#### *Killing of SDF Official John Kohtem, August 2004*

The Tribunal found reports on the murder of John Kohtem, an incident that the applicant claimed to have witnessed. Various sources state that Fon (traditional ruler) Doh Gay Gwanyin III was involved in the torture, detention and murder of opponents. He was arrested and released on bail in connection with the killing on 20 August 2004 of John Kohntem, the District Chairman of the SDF. Sources also indicate that he has premises described as "the palace".

According to one US State Department report:

On August 20 [2004], the private guards of Member of Parliament (M.P.) Gah Gwanyin Doh III, who was also the Fon (traditional ruler) of Balikumbat, a locality of the North West Province, reportedly beat to death John Kohntem, the District Chairman of the Social Democratic Front (SDF), the country's leading opposition party. The guards killed Kohntem when he was returning from a meeting about presidential election preparations, in which he accused the M.P. of committing pre-electoral fraud. Reports from regional political leaders, human rights advocates, journalists, and others indicated that Kohntem was killed because he challenged the Fon's traditional authority. There were no indications of involvement in the killing by the executive branch of the Government. In early September, police reportedly arrested and detained 11 suspects; however, the M.P., who had parliamentary immunity from prosecution, was not arrested. At year's end, a police investigation was ongoing, and the National Commission on Human Rights (NCHRF) was also investigating this case (US Department of State 2005, 'Arbitrary or Unlawful Deprivation of Life' in *Country Reports on Human Rights Practices for 2004 – Cameroon*, 28 February)

#### *Treatment of Failed Asylum Seekers*

Country information provides wide-ranging views on the treatment of returning asylum seekers, including Anglophones. One source states that it is widely believed that most asylum seekers in the UK are from the Anglophone provinces of Cameroon.

A June 2006 news article in the *African Echo*, a UK-based bi-weekly newspaper that provides news to Africans abroad ('About us' 2007, African Echo website, 14 September <http://www.africanecho.co.uk/aboutus.shtml>) states that (Tribunal emphasis added):

Whilst returned asylum seekers are supposed to be supported and integrated into the economic development of their country, as outline by The Refugee Convention: – a disturbing investigative report has revealed that deported asylum seekers and those ejected from UK and other European states for immigration offences are being tortured and imprisoned, suffering a severe breach of their human rights upon their returned to Cameroon.

This is based on a current independent enquiry undertaken at the police station in Douala and Yaounde airport, the detective divisions and the Douala New Bell and Kondingui prisons respectively by the Cameroon Human Rights Lawyers and Lawyers Without Borders (sic) (L.W.B)

**It disclosed that torture is widely used to sanction returned failed asylum seekers whom the regime considered as opponents.** The returnees are left miserable and rather unsafe in Cameroon than expected, claim lawyer Jean Momo, head of investigative team.

Returned asylum seekers in uk (sic) are usually deported with a home office travel document stating reasons for the returned. At times police accompany returnees and hand them to the Cameroon security at the airport.

According to human rights lawyers, a solid network of security has been mounted at airport to track down individuals brought under such condition or bearing home office travel documents. **Whilst their returned may be subjected to investigation those marked by the police as activist or perpetual opponents to the regime are immediately arrested, torture and send to prison without access to justice or proper examination of their case.**

**The findings confirmed that those deported from UK whom the government considers as "SCNC" supporters are instantly detained and systematically send to prison after the required appearance before the state prosecutor, (if need be).**

In some situation it takes long to open a judiciary enquiry for a case whose conclusion may take several years .some remand detainees wait more than ten years in prison without judgement and Sometimes their dossiers are reported missing, (LWB) claimed.

More than 400 inmates and failed asylum seekers, were interviewed during this research in Douala and Yaounde airport and prison respectively. Amongst them where returned detainees who had supported their asylum claim or immigration applications in uk with evidence that they were fleeing political persecution by the current regime. These individual are misfortune to fall back into the hands of their captors and are punished with impunity or without mercy Barrister Epie Philip, a human rights lawyer said ('Plights of Returned Asylum Seekers to Cameroon' 2005, *African Echo News*, 25 February ([http://www.africanecho.co.uk/africanechonews\\_25feb2005asylum.html](http://www.africanecho.co.uk/africanechonews_25feb2005asylum.html) – Accessed 20 June 2006).

In 2006, an RRT officer contacted the author of the *African Echo* article, Njualem Columbus. He advised as follows:

Cameroon (sic) has one of the worst human rights records in Africa. In assessing its human rights situation one has to examine the geo-political climate in the country especially the aglophone (sic)- francophone disputes which gave birth to the SCNC movement. **it (sic) is widely believed that most asylum seekers from Britain (sic) are from Anglophone Cameroon (Southern Cameroon)**. Britain was the colonial master, this hugely accounts for the harsh treatment of returnees believed to be SCNC supporters (Columbus, NjuaLEM 2006, *Reply to Country Information Request CMR30289*, 11 July)

Also in 2006 DFAT advised on asylum seekers with information collected and provided by a Cameroonian locally engaged staff member (LES):

Asylum claims lodged by Cameroonian athletes are currently under consideration. The athletes claim they will be harmed because they have applied for protection in Australia.

...

Q3. Case manager would be grateful for your advice regarding how asylum seekers/overstayers are treated on return.

...

A3. Claims are not true. **An unsuccessful asylum seeker or overstayer is not even intercepted by the immigration police upon return to Cameroon. The LES officer has advised that he talked to Mr. Alungue Abane, the Chief of Service Immigration for Yaounde, and to the Police Commander of the "Mobile Intervention Unit, Groupement Mobile d' Intervention" Mr. Bah Nkembe**, who both assured him that a repatriated asylum seeker gains total freedom upon arrival in Cameroon, and confirmed that there are no charges laid against them.

**Exceptions are** for the repatriated who have committed a crime in the repatriating country and are returned to Cameroon on this basis, but even in this case there will be no torture involved. Any judicial proceeding depends on the existence of any bilateral or multilateral conventions that bind Cameroon and the repatriating country (DIAC Country Information Service 2006, *Country Information Report No. 06/20 – CISQUEST No. CMR8550 – Cameroon: Asylum seekers*, (sourced from DFAT advice of 2 June 2006), 5 June).

A 2004 UK Home Office fact-finding mission to Cameroon reported on returning failed asylum seekers:

Jacques Franquin, a representative of the United Nations High Commission for Refugees (UNHCR) based in Cameroon informed the delegation that although many Cameroonian asylum seekers have been returned to Cameroon, **he is not aware that any have been arrested or harassed on return**. There is no international organisation in the country that deal with the return of failed asylum seekers. Allegations have been made that some failed asylum seekers that have been forced to return to Cameroon have since disappeared, but there is no confirmation of this. It is possible that they may have been trying to seek asylum in another country (UK Home Office 2004, *Report of Fact-Finding Mission to Cameroon 17-25 January 2004*, para.17.1 <http://www.unhcr.org/cgi-bin/texis/vtx/home/opendoc.pdf?tbl=RSDCOI&id=4152c6cc4> – Accessed 20 June 2006).

The 2001 Danish Immigration Service report also presented a range of views on the treatment of returning asylum seekers:

**A western diplomatic source believed that a rejected asylum applicant forcibly returned to Cameroon would not be at risk**. He was not aware of the Cameroonian authorities detaining Cameroonian citizens who had been deported after their asylum applications had been rejected, **simply because they had sought asylum abroad**. He did not know of cases where a returned rejected asylum applicant had had problems with the authorities as a result

of being deported. He pointed out that the authorities were not informed that people were rejected asylum applicants.

Gemuh Akuchu confirmed that rejected asylum applicants who returned to Cameroon voluntarily were not at risk of being detained by the police on their return.

**A rejected asylum applicant who was deported in handcuffs** and was accompanied by a foreign policeman who handed him over to the Cameroonian authorities at the airport risked detention by the police. This would be to investigate his background. **If the Cameroonian authorities were aware that he had sought asylum abroad he would be suspected of having discredited Cameroon. If the authorities merely found that he had sought asylum for economic reasons he would be released.** The editor of the Messenger also believed that asylum applications abroad were seen as damaging Cameroon's image.

The same source reported that **in December 2000** a returning Cameroonian had been **detained by the airport police in Douala because he was on a list of wanted persons. No official reason was given for his arrest, but it was probably on political grounds.** The returning Cameroonian had been active in an English-speaking Cameroonian group in the USA. He was released after 12 hours. Such detentions were short, usually a day or half a day.

**Several sources said that there were cases of Cameroonians coming over the land border from Nigeria to avoid the risk connected with arriving at airports.**

T. Asonganyi reported that **if the authorities knew that someone was a rejected asylum applicant they would arrest him as, by applying for asylum, he would be suspected of harming Cameroon's reputation abroad. He would also risk being ill-treated or even tortured.**

Akuchu said **that the forcible or accompanied deportation of a rejected asylum applicant would not cause problems if the authorities were not informed that the individual was a rejected asylum applicant.** The best way to deport a rejected asylum applicant was for accompanying policemen to wear civilian clothes as though they were travelling with any other person.

**None of the diplomatic sources consulted by the delegation were aware of any cases in which the return of rejected asylum applicants had led to serious problems for those involved.** Several sources said that no such cases had been mentioned by Amnesty International or by human rights organisations in the relevant western countries. They took this as a sign that there were no cases of rejected asylum applicants having problems with the Cameroonian authorities because of their asylum applications.

One western diplomatic source reported that their local legal adviser had stated that there was no legislation in Cameroon providing for prosecution for seeking asylum abroad. However, in practice things could be very different. His country had known a number of cases of rejected Cameroonian asylum applicants marrying nationals while their asylum applications were pending. The rejected asylum applicants had then voluntarily gone home to Cameroon to wait for family reunification from there under existing rules. The source saw this as a sign that rejected Cameroonian asylum applicants were not persecuted when they returned home. If the contrary was the case, they would have been persecuted while they were in Cameroon waiting for their applications for family reunification to be processed. None of the individuals concerned had reported to the representation in Cameroon that they had been persecuted because of their asylum application abroad. The source added that rejected asylum applicants who returned voluntarily were not known to be such in Cameroon. The Cameroonian authorities would not be able to tell whether deported Cameroonians were rejected asylum applicants or had, for example, been deported because their visas had expired.

Another western diplomatic source reported that last year one European country returned nearly 200 people to Cameroon. They were escorted by police, and none of them had reported problems of a political nature in Cameroon. Some were rejected asylum applicants and others had committed minor crimes.

The same source commented that Cameroonians who had left on a false passport and been returned to Cameroon would not be punished as a result. Someone who tried to enter on a false passport would be able to do so without problems (Danish Immigration Service (undated), *Fact-finding mission to Cameroon 23/1-3/2 2001*, para.8.1.2 [http://www.udlst.dk/udlst\\_engelsk/sjle1/cameroon.eng.01/heledokumentet.html](http://www.udlst.dk/udlst_engelsk/sjle1/cameroon.eng.01/heledokumentet.html) – Accessed 14 June 2002).

## **FINDINGS AND REASONS**

The Tribunal accepts that the applicant has Cameroonian nationality, based on his passport and his oral evidence. It therefore assesses his refugee claims against that country.

The applicant claims to fear persecution from the Cameroonian authorities for reason of his political opinion, actual and imputed. This arises from 2 circumstances: (a) his active past involvement with the opposition SDF and, more recently, the banned Anglophone separatist organisation SCNC; and (b) perceptions of his political opinion if he were to return to Cameroon as a failed asylum seeker.

The Tribunal accepts that the applicant, whilst living in Cameroon, was associated with and a supporter of the SDF and, more recently, the SCNC. It takes into particular account the applicant's oral evidence, including his demonstrated (albeit uneven) knowledge of the parties' organisation, personnel and key incidents; the photographs before the Tribunal showing him at an SDF march; and the testimony of Person B concerning the applicant's activities. It also notes the applicant's willingness for it to confirm with SDF and SCNC organisers his claimed membership, even though the Tribunal's efforts to establish contact with these persons did not succeed.

The Tribunal notes that the applicant presented further evidence that supports this claimed association, much of it purporting to indicate that the applicant was an office bearer in one or both parties. The Tribunal places little weight on this further evidence. It found the applicant unforthcoming about the source of these documents. It does not accept that the applicant arranges this documentation via his sibling in Country A, who in turn contacts his mother, as he did not provide a persuasive explanation why his sibling is able to do so yet he is not. The Tribunal also does not accept as truthful the contents of the letter from the applicant's mother to him in Country C, written on the same day as his family member died, in which she purports to tell him that it is too dangerous for him to contact them directly. This formed the basis for the applicant's claim that he was unable to contact his family in Cameroon.

Although the Tribunal accepts that the applicant was associated with the SDF and the SCNC in the past, it finds that he exaggerated the extent and nature of his involvement. Overall, it found that much of his evidence was unreliable.

For instance, country information and material presented by the applicant show that the opposition parties readily issue the name of activists. It is therefore highly surprising that the applicant, if he was an office bearer for both parties, was sufficiently important to be targeted by Person A and to receive party assistance in the manner claimed, and if he and his family

were punished so severely and persistently, receives no public mention at all. The Tribunal also found that the applicant gave evasive evidence on a number of issues, such as his employment and business interests in Cameroon, and his contacts with his family. The Tribunal has little confidence in the applicant's claimed chronology of past experiences and harm in Cameroon, or his claimed experiences in Country D. In sum, the Tribunal considers that the applicant has done himself few favours by fabricating and embellishing claims, and by obscuring his real circumstances.

The Tribunal finds that the applicant's association with the SDF and the SCNC was limited both in nature and in time. The applicant's claims – 'of a pattern of arrest, torture and beatings, of the arrest and torturing to death of his [family member], the issuing of an arrest warrant against him, and the destruction of his parents' home' (the text of the delegate's decision) – are in the Tribunal's opinion at odds with this profile, and cast doubt on his credibility overall.

The Tribunal nonetheless accepts that some of the incidents are based on fact (such as his family member's death and his mother's resignation, although for reasons unrelated to his refugee claims) and that he has faced some past harassment and intimidation for reasons of his political interests, but it rejects his overall account, and specifically his claims of past Convention-related harm.

Since leaving Cameroon, the applicant has shown minimal interest in these parties or any related political issues. This is despite his reference at hearing to these parties rely in part on financial and moral support from expatriate members and sympathisers, given the current political climate in Cameroon. (The Tribunal dismisses the applicant's claim that his own living expenses were partly covered by funds that the SDF and the SCNC received from abroad; in its opinion, the applicant was not truthful about his livelihood in Cameroon.) The Tribunal notes the applicant's partial explanation for this, in that he is concerned that political activism abroad may endanger his family members. However, it formed the view that his past limited interest in Cameroonian politics has now dissipated.

The Tribunal finds that, if the applicant were to return to Cameroon, he would resume some interest and involvement in opposition politics, once he was back in that environment. However, it finds that his level of engagement would be not more than as an ordinary supporter of the SDF and the SCNC.

The Tribunal finds on the material before it that there is, nonetheless, a small but real chance that the Cameroon authorities will persecute the applicant if he returns there, due to his particular circumstances. This is the combination of 2 factors: (a) his past, localised political profile with both the SDF and the SCNC, and (b) his status as a failed asylum seeker. The reasons follow:

#### *Persecution*

The applicant fears arrest and mistreatment. There is ample documentation, summarised in the US State Department report (see page 14 above), indicating various forms of mistreatment, including physical violence, specific forms of torture (including those mentioned in the applicant's statement of claims) and humiliation. The Tribunal is satisfied that the harm the applicant claims to fear would at least constitute significant physical harassment of the person or significant physical ill-treatment of the person (see s.91R(2)(b))

and (c) of the Act). The Tribunal is therefore satisfied that the applicant fears harm that is sufficiently serious to constitute persecution for the purposes of the Refugees Convention.

#### *Convention Ground*

The claimed fear of persecution must be for reason of one of the grounds set out in the Refugees Convention. The applicant claims to fear persecution for reason of his political opinion, actual and imputed. The Tribunal is satisfied that his refugee claims relate to this Convention ground.

#### *Convention nexus*

Country information indicates that the Cameroon security forces and other government agents are motivated to act against leaders, activists and supporters of opposition parties (in this case, the SDF and SCNC) because of their political opinion. Similarly, reports indicate that the Cameroon authorities – if they single out a failed asylum seeker returning to Cameroon – do so because of that person’s actual or imputed political opinion, eg. because they are viewed as political opponents (see *African Echo* June 2006 article, page 15-16 above) or, less directly, for being suspect of “harming Cameroon’s reputation abroad” (see the 2001 Danish Immigration Service Report, page 17 above). The Tribunal finds that the applicant’s political opinion, actual and imputed, is the essential and significant reason for the persecution he fears, as required by section 91R(1)(a), and that the persecution he fears involves systematic and discriminatory conduct, as required by section 91R(1)(c) of the Act.

#### *Well-founded fear of persecution*

The Tribunal is now required to consider whether the applicant faces a real chance of persecution, for reason of his past political profile as a past SDF and SCNC supporter, his future wish to resume low-level support for the SCNC in particular, and as a failed asylum.

The Tribunal finds as follows:

- Country information cited above, including the US State Department and Amnesty International, refers to the mistreatment of Anglophone political activists as one of the areas of concern in Cameroon’s overall poor human rights record. In the Tribunal’s opinion, this calls for a cautious approach in a real chance assessment of individual refugee claims based on oppositional political activities.
- The Tribunal does not accept that the applicant was ever an opposition leader, organiser or office bearer, but rather a general supporter, and possibly one who actively contributed to the SDF and the SCNC from time to time. Although it has rejected the applicant’s account of his employment and financial circumstances in Cameroon, the Tribunal nonetheless considers it plausible that he in fact operated a small business or worked in the private sector, and that he was therefore able to give some material support to the opposition through this means.
  - Country information concerning official interest in SCNC supporters is unclear. Some reports suggest that the authorities target political leaders and activists, rather than supporters. Furthermore, as noted in the delegate’s decision, the US State Department 2005 report (page 14 above) records that, although SCNC supporters were amongst those arrested in 2005, they were detained only briefly. There is no mention of whether they were subject to mistreatment, physical or mental, during these brief detentions.

- Nonetheless, the Tribunal considers that the SCNC's status as an illegal (or at least unauthorised) organisation; DFAT's advice in May 2007 that mere membership might conceivably be a basis for a person's inclusion in a list of those wanted for arrest; other references suggesting that the authorities act broadly against activists and supporters alike (page 13 above); and US State Department advice about pre-emptive arrests of supporters (among others) also during 2006 all raise the possibility that SCNC supporters may, in some circumstances, be at risk. This is particularly so given the Cameroon government's record on the treatment of persons in detention.
- Country information on the treatment of failed asylum seekers is divergent. Much of it is based on the experiences of European, particularly the British, governments. A recurrent theme is the extent to which the Cameroon authorities might know or suspect that an individual has been deported and has sought asylum abroad – for instance, the Danish Immigration Service report mentions one individual having been 'deported in handcuffs'. In the Tribunal's opinion, there is a low likelihood that the Cameroon authorities will identify the applicant as a person who has sought asylum in Australia, taking into account the lack of direct flights from Australia to Cameroon, the absence of any clear indicators that would alert them to this (such as passport stamps or the presence of deportation officers) and the fact of the applicant's long stay in other countries (thus suggesting that he has chased business opportunities rather than asylum).
  - However, the Tribunal is mindful that the Cameroonian authorities may nonetheless presume that the applicant, an Anglophone, sought asylum whilst in Australia, another English-speaking country.
  - While most of the sources cited above (pages 15-18) indicate that they did not know of rejected asylum seekers having been arrested or harassed on return, the Danish Immigration Service includes an important qualification in the situation where a returnee was known to have sought asylum abroad.
  - The June 2006 article in the *African Echo* (page 15-16 above) takes an altogether more cautious approach, stating baldly that the authorities torture those 'considered as opponents', and, specifically those thought of as SCNC supporters 'are instantly detained and systematically sent to prison [...].'
- The Tribunal finds that the applicant fears persecution from the ruling government and its security forces. It follows that there will be no effective State protection from such harm. For the same reason, the Tribunal finds that there is nowhere in Cameroon where the applicant might reasonably relocate, free of the risk of persecution.

In light of the above, the Tribunal finds there is a small but nonetheless real chance that the applicant will be recognised as a (former) SCNC supporter on his return to Cameroon; that the authorities will consider him as an (ongoing) opponent for this reason; and that that they will also presume that he has made refugee claims against Cameroon, damaging that country's reputation. They may therefore interrogate, detain and possibly physically and mentally abuse the applicant for reason of his political opinion.

The Tribunal therefore finds that the feared persecution is well-founded within the meaning of the Refugees Convention.

The Tribunal finds that the applicant is outside his country of nationality, Cameroon. For the reasons stated above, the Tribunal finds that he has a well-founded fear of persecution for reason of his political opinion, actual and perceived, if he returns to Cameroon, now or in the reasonably foreseeable future. The Tribunal finds that he is unwilling, owing to his fear of persecution, to avail himself of the protection of the Cameroon Government. Although the

applicant has lived in various countries, most notably in Country D, there is nothing to suggest that he has a legally enforceable right to enter and reside any other country other than the country of his nationality, Cameroon. The Tribunal therefore finds that the applicant is not excluded from Australia's protection by subsection 36(3) of the Act (see *Applicant C v Minister for Immigration and Multicultural Affairs* [2001] FCA 229; upheld on appeal, *Minister for Immigration and Multicultural Affairs v Applicant C* (2001) 116 FCR 154).

## **CONCLUSIONS**

The Tribunal is satisfied that the applicant is a person to whom Australia has protection obligations under the Refugees Convention. Therefore the applicant satisfies the criterion set out in s.36(2) for a protection visa.

Having considered the evidence as a whole, the Tribunal is not satisfied that the applicant is a person to whom Australia has protection obligations under the Refugees Convention. Therefore the applicant does not satisfy the criterion set out in s.36(2)(a) for a protection visa.

## **DECISION**

The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act, being a person to whom Australia has protection obligations under the Refugees Convention.

I certify that this decision contains no information which might identify the applicant or any relative or dependant of the applicant or that is the subject of a direction pursuant to [section 440](#) of the *Migration Act 1958*. Sealing Officer's I.D. PRRT41