

Asylum and Immigration Tribunal

FK (SDF member/activist – risk) Cameroon CG [2007] UKAIT 00047

THE IMMIGRATION ACTS

**Heard at Field House
On 14 March 2007
Prepared 22 March 2007**

**Determination Promulgated
On 21 May 2007**

Before

**SENIOR IMMIGRATION JUDGE LATTER
SENIOR IMMIGRATION JUDGE JARVIS
MR M G TAYLOR, CBE**

Between

and

Appellant

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms F Webber of Counsel
For the Respondent: Ms S Leatherland, Home Office Presenting Officer

In the light of the evidence currently available, membership of or actual or perceived involvement with the SDF at any level is unlikely by itself to give rise to a real risk of persecution but some prominent and active opponents of the government in Cameroon may depending on their particular profile and circumstances continue to be at risk.

DETERMINATION AND REASONS

1. This is the reconsideration of an appeal against the respondent's decision made on 10 September 2001 to give directions for the appellant's removal following the refusal of her claim for asylum. Following a hearing on 25 November 2005 the Tribunal (Senior Immigration Judge Gleeson, Mr A Smith and Mr A J Cragg) agreed that the determination of the adjudicator, Mrs N Bird, issued on 12 May 2004 contained material errors of law. The hearing was adjourned and

transferred to this Tribunal to consider the decision to be substituted for the adjudicator's decision.

Background

2. The appellant is a citizen of Cameroon born in April 1973. She arrived in the United Kingdom on 16 December 2000 claiming asylum on 20 December 2000. Her claim is based primarily on her and her family's political activities in support of the Social Democratic Front (SDF), now the largest opposition political party playing any major role in opposing the government party, the Cameroon Peoples' Democratic Movement (CPDM), also referred to as the Democratic Rally of the Cameroon People (RDCP). It is the appellant's case that her father joined the newly formed SDF in 1990. He died in 1997 following an attack by agents of the RDCP. In 1998 the appellant's brother became a departmental SDF secretary and the appellant a ward secretary in Douala. In May 1999 following the appellant publicly condemning the ruling RDPC in a television programme, she was abducted at the instigation of a senior RDCP member (referred to in this determination as Mrs F) and severely injured in a staged car crash. In April 2000 the appellant was detained, held incommunicado and repeatedly raped after again publicly condemning the RDCP. On 20 August 2000 she escaped from detention by bribing a guard and arrangements were made for her to leave Cameroon.
3. The respondent refused her application for asylum on 10 September 2001. She appealed to an adjudicator, Mr M Curzon-Lewis, but following a hearing on 29 April 2002 her appeal was dismissed. She was refused permission to appeal to the Immigration Appeal Tribunal but that decision was quashed by consent in judicial review proceedings. The Tribunal remitted the appeal for rehearing and it was allowed by Mrs N Bird following a hearing on 26 April 2004. The respondent was granted permission to appeal to the Immigration Appeal Tribunal on 25 September 2004. This grant of permission took effect as an order for reconsideration and on 25 November 2005 the Tribunal held that the Adjudicator had materially erred in law. It set out its reasons as follows:
 - "1. This appeal has a long procedural history. The appeal was originally heard by Mr Curzon Lewis on 29 April 2002 and determined by him on 24 July 2002, the Immigration Judge finding that the appellant had not established a well-founded fear of persecution by reason of her political opinion. He found as a fact that the appellant's involvement with the SDF was at the lowest level in her ward as such activities as she undertook for the party were not such as to attract state attention.
 2. An appeal from that decision was considered by the Immigration Appeal Tribunal on 17 September 2002 and leave to appeal refused. Pursuant to an application for judicial review in December 2002, that decision was quashed and the appeal remitted to a different Tribunal for consideration. The present solicitors began acting at that time.
 3. At the hearing before the Immigration Appeal Tribunal, the appeal was remitted for hearing afresh, by consent, the Tribunal noting that both

parties had produced further evidence. In the Secretary of State's case the evidence produced is one two-page letter from the British High Commission in Cameroon. The appellant produced various documents which the Immigration Judge considered, in rebuttal of the points made in the High Commissioner's letter.

4. The appeal was then reheard by Mrs N Bird, who determined it for the second time on 12 May 2004, without reference to the first determination; that was an entirely proper approach under the law as it then stood, because of the two tier structure which existed before 4 April 2005. However, the second [adjudicator's] determination does not deal with the letter from the British High Commission, although it does deal with other evidence which was put forward by the appellant to rebut the points made in the High Commissioner's letter. Both parties made submissions on the High Commissioner's letter, which are recorded in the second [adjudicator's] record of proceedings, but appear to have been overlooked in the determination itself.
5. The letter from the British High Commission is potentially very significant in this appeal, as it records that –
 - (a) The High Commissioner had approached the chairman and legal adviser of the SDF, Mr John Fru Ndi, who had never heard of the appellant, her father or the complaints against a Mrs F upon which the appellant relied. He noted that the appellant had used terminology describing the SDF structures in an inaccurate manner and that the SDF did not use the term sub group or have an administrative district in Douala known as NBT. He had found no trace of the appellant or her father in SDF records.
 - (b) The High Commissioner had then consulted the Chairman of the National Commission for Human Rights and Freedoms (a government founded body). The NCHRF Chairman, Dr C D B, indicated that he was sure that the appellant's claim to have been persecuted because of her membership of the SDF was not true, based upon his experience of the current human rights situation in Cameroon. Dr B himself originates from the north west province where the SDF had its headquarters.
 - (c) The High Commissioner next consulted two leading local NGOs, the Littoral branch of ACAT (The Association of Christians Against Torture), whose director did not believe the claim, and the chairman of NDH (Nouveaux Droits de L'Homme), which had strong support from the French Government and whose chairman, Dr H B, did not believe the allegations and was "categorically convinced that the mere fact of belonging to the SDF would not today expose a Cameroonian citizen to inhuman treatment".
 - (d) The High Commissioner confirmed that the death certificate for the appellant's father appeared to be genuine.
 - (e) An article from the Jeune Detective of 29 August 2002 had indeed been published but the High Commissioner observed that the Jeune Detective newspaper was unreliable and sensationalist.
 - (f) There was ready access to treatment for the physical aspects of the appellant's condition.

- (g) Some NGOs in Cameroon worked with the victims of torture to support recovery.
6. It is most unfortunate that the Adjudicator did not deal at all with the High Commissioner's letter, having heard submissions upon it from both parties. The highest that Ms Webber was able to put her case was that, since the documentary evidence obtained by the appellant was intended to rebut the High Commissioner's letter, the Immigration Judge must have been aware of the letter and could not be taken to have overlooked it. That simply is not good enough, because this document is of crucial importance. The failure to deal with it is plainly an error of law, and one which is potentially decisive and therefore material. The appeal must be heard again.
7. There have been many changes in the political situation in Cameroon since the appellant came to the United Kingdom. We consider that this appeal, when reheard, may be suitable for country guidance on the position of the SDF, and the parties should provide up to date evidence to assist the reconsidering panel in considering the risk on return at the date of rehearing.
8. The Tribunal has therefore concluded that the appeal should be retained at Field House and heard by a legal panel."

Directions were given for the filing of further evidence including evidence on the issue of whether members of the SDF would be at real risk on return to Cameroon.

Documentary Evidence

4. The appellant produced a bundle of documents (A) indexed and paginated 1-179. The evidence relating to the country background is at pages 165-179 and is identified in annex A attached to this determination. In addition the appellant produced a statement she made in support of the application for asylum by her son (A1) and a small bundle of further documents relating to her claim (A2). The respondent produced a bundle of documents (R) containing background evidence again identified in annex A indexed and paginated 1-127 together with a letter dated 25 July 2003 from the British High Commission in Yaounde (R1) and a fax containing a further e-mail from the High Commission sent on 17 February 2002 (R2). The appellant's representatives have indicated that they have not been in a position to obtain expert evidence in relation to the appellant's claim.

The Oral Evidence

(i). Mr N

5. Mr N is the head of the SDF (European Division) and has been so since May 2006. Before that he was the Chairman and Co-ordinator of the London section of the SDF. His letters and statements are set out at A122-137. He has been recognised as a refugee. In his most recent statement of 6 February 2007 (A131-7) he confirmed that in May 2006

the SDF divided into two arising from a dispute as to whether its president John Fru Ndi had violated the statute of the party. This dispute between the members led to two congresses being organised on 26 May 2006, one at Yaounde (led by by Bernard Muna) and the other in Bamenda (led by Fru Ndi). There was violence at the meeting in Yaounde caused by supporters of the faction led by Fru Ndi. The cause of the split arose from allegations of corruption and complicity between Fru Ndi and the CPDM, the ruling party. According to Mr N, in the north of Cameroon the SDF has rejected Fru Ndi completely whereas elsewhere the SDF is split and there are two factions of the SDF in each town and district. He supports the Muna faction. It is Mr N's view that all activists who really want a change in Cameroon are persecuted irrespective of their party membership.

6. In an earlier statement (A126-130) he said that the appellant was a member of the SDF and that this was recorded in the party's records. He had contacted the co-coordinator of the SDF in Douala II, Mr Nguiffo Innocent and her membership had been confirmed. Mr Innocent also confirmed that the appellant had been hospitalised following a kidnap and subsequent car accident but the matter was not discussed in any further detail as the focus was upon the nature of the appellant's activities. Mr N had also spoken to Dr K, one of the people consulted by the UK High Commission. He had not been able to substantiate the appellant's account and when he said that he did not "believe" her account it was because they had not able to investigate sufficiently to see if the case was established or not. It was Mr N's view that the appellant would be at risk of persecution on return to Cameroon because of her activities in this country. She had been photographed taking part in demonstrations and her association with him would also put her at risk.
7. In oral evidence he described the appellant as an active member of the SDF and Cameroon Diaspora Coalition (CDC), a human rights organisation fighting for the rights of Cameroonians to take part in a fair political process. The Cameroon intelligence services would know that the appellant was close to him. He was aware of the history between the appellant and Mrs F. He had come across Mrs F for many reasons. She was currently an MP for the ruling party and a Mayor of one of the areas of Douala. She would have power to do what she wanted without fear of arrest. It was his view the appellant would continue to be at risk from her.
8. In cross examination Mr N said that he had last been in Cameroon in February 1999. He had not known the appellant or her father at that stage. There were records of party members. In 1991 or 1992 the party tried to computerise the files but they were destroyed by the army and police. Every cell had a register. If he had the telephone number of cell leaders, he could contact them as he had done with Nguiffo Innocent. He had wanted to know if the appellant was an SDF militant and he confirmed that she was. When asked to describe what he meant by militant he said he would regard this as someone who was a holder of an SDF membership card rather than a sympathiser.

(ii) The Appellant

9. The appellant's witness statements appear at A1 – 46. Her claim is fully set out in her statement of 1 December 2005 at A11-37 and can briefly be summarised as follows. Her father joined the SDF in 1990. She has two older brothers who are also active in the party. From 1992 to 1996 the appellant studied at the University of Douala and then served a three year apprenticeship as a midwife. She started to work as an SDF sympathiser in 1993. One of her brothers became a counsellor in the area of Douala II and was secretary to the Department of Littoral. The appellant's father encouraged his children to be active in politics and the appellant began to attend SDF meetings in the cell in Ngangue within Douala II. In 1997 the appellant's father died following what his family believed to be an attack by political opponents. Following his death the appellant continued to be active for the SDF. She campaigned for the SDF candidate in municipal elections and became a volunteer assistant secretary for the constituency of Douala II. She attended meetings of the "co-ordination departmental" covering a number of constituencies including Douala II.
10. There was a weekly national television programme "Expression Direct" and each local "co-ordination departmental" had the opportunity of producing an occasional short item for this programme as all political parties were able to appear although the majority of the air time was reserved for the government. The appellant put herself forward to do this and was accepted. She decided to talk about the problems relating to petrol and how the Director of Hydrocarbons in Cameroon was accountable only to the President and the Cameroonian people did not benefit from any increase in price. The programme was due for transmission on 13 May 1999. The appellant said that on 19 May 1999 she received a call saying that she would be picked up to take her to a meeting with the party president of her local area. In fact she was taken to see Mrs F and was threatened by her. According to the appellant, Mrs F said that what happened to her father was obviously not lesson enough and that she would be left in the hands of someone who would look after her. She was taken out and put in the boot of a car. She did not know what happened but she was hospitalised and unconscious for five days. She discovered that she had been involved in an accident involving a crash with a stationary lorry. The local president of the SDF was contacted and he visited the appellant in hospital. The appellant went to a clinic for surgery. She was on crutches for forty five days and had to convalesce for a month before returning home.
11. When their turn next came to make a contribution to Expression Direct, the appellant suggested that she should testify about the treatment she had suffered as an example of the persecution of SDF opponents. The appellant's account was recorded in February 2000. The cassette recording the broadcast was sent to the SDF leadership who then sent it on to the television station. According to the appellant in February 2000 a number of SDF activists were arrested particularly in Douala II. In April she was detained by gendarmes and kept in a police cell for two weeks.

She was taken to New Bell Prison where she was raped by prison wardens. The rapes continued throughout her detention but eventually she was able to persuade one guard to help her and he arranged for her escape from detention on the basis that he would be paid by the appellant's brother. The appellant escaped from the prison in early August 2000 and was initially taken to a friend's house. She then travelled to her grandmother's house in Bandjoun and with the help of a priest was able to leave Douala by boat finally arriving in this country on 16 December 2000.

12. In her oral evidence the appellant said that her son arrived in this country in September 2005. He had become depressed because of what had happened to him in Cameroon and he was now receiving treatment with a family therapist. Since arriving in this country the appellant has had a child who is a French national. She was now married to a Cameroonian national and they had a child born in September 2005. She was pregnant again but was not able to live with her husband because his case had been dismissed and he had been told that they could not be together until his case was finally resolved. It was the appellant's view that nothing had changed so far as Mrs F was concerned. She had taken part in demonstrations against the Cameroonian Government in this country. She attended meetings with the CDC.
13. In cross-examination she said that the first broadcast of the TV programme in Cameroon had been on 13 May 1999. It had been pre-recorded for Expression Direct which was a national TV channel. The "co-ordination departmental" of the SDF decided what the subject would be. She had been taken to see Mrs F who said that she had seen the appellant talking about petrol and asked her to confirm that she was the daughter of her father. She did not know whether the programme recorded in February 2000 had been broadcast. She had thought that if what had happened to her was made known through the broadcast then this would protect her from any further persecution.

(iii) The Appellant's son

14. The appellant's son confirmed his witness statement at A68-70. He said that his mother had left Cameroon in 2000. He went to live with his aunt and grandmother. The police constantly came to their home looking for his mother. He had been ill-treated by the police and beaten when they were looking for his mother. The police then started looking for his aunt after she left. He had been interrogated about her. Their house had been burned down and he had gone to live with neighbours and was later collected by his aunt. He was taken by his aunt to Mali where arrangements were made for him to be brought to this country to join his mother. He confirmed that he had been granted refugee status following a successful appeal. A copy of the determination of Immigration Judge Herbert allowing this appeal is at A73-81. He confirmed that he was attending school and continued to go once a

week to the Medical Foundation for family therapy. He was not cross-examined.

The Medical Evidence

15. The medical evidence appears at A49-67. There is a report from Dr Clark at A49-55 confirming the presence of extensive scars which she describes as compatible with the account of being involved in a car crash. There are many other scars compatible with the account of being beaten in prison. The appellant has pelvic inflammatory disease and other circumstantial evidence suggests that she was infected as a result of the rapes. In the report of Dr Garland at A56-60 the appellant is described as suffering from post traumatic stress disorder which in her view is consistent with the kidnap, imprisonment and brutal treatment she endured whilst in prison in Cameroon. In the report at A61-67 the appellant's injuries are described as consistent with her history but not with a story of deliberate self harm or injuries from domestic work. They are consistent with violence particularly directed towards women with the intention of rape. The diagnosis of pelvic inflammatory disease was consistent with a history of being raped by different men on different occasions.

The Evidence from the British High Commission

16. This evidence from the High Commission in Yaounde is set out in a letter dated 25 July 2003 (R1) there is also a further letter dated 18 October 2003 at A82-3. In substance the letters are identical. These confirm that the High Commission has consulted the Chairman of the SDF, John Fru Ndi, who said that he knew neither the appellant nor her father and had not heard any complaints about Mrs F. Dr B of the National Commission for Human Rights and Freedoms was also consulted and he was said to be sure that the appellant's claim of being persecuted because of her membership of the SDF was ill-founded. Two leading NGOs including Dr K were also consulted and they did not believe the appellant's claims. The letter confirmed that the death certificate for the appellant's father was likely to be genuine and that there had been an article in a newspaper, Jeune Detective of 29 August 2002, but that paper had proved to be unreliable and sensationalist. The letter also confirmed that medical facilities for the physical aspects of the appellant's condition would be available but treatment for the mental and emotional aspects might be more difficult. The High Commission would try to ensure the appellant's safety by keeping in regular contact with her and alerting the Cameroonian Government to her case and to her return. In a subsequent e-mail sent on 17 February 2006 (R2) it is confirmed that Innocent Nguiffo was the Chairperson of the Douala II Electoral District of the SDF Party until late 2004 when he had been voted out of office during district elections and that Mrs F was the president of the Douala IV Section of the ruling party and an MP for a constituency in Douala. She is described as an influential member of the ruling party and a leading female politician and business person.

Submissions

17. Ms Leatherland relied on the contents of the letters from the High Commission submitting that they seriously undermined the appellant's claim. There were contradictions in her evidence about the position she held for the CDF and her descriptions of the party's organisation and structures were inaccurate. It was not clear from her evidence whether after the kidnap she had attempted to contact the local or the national president of the SDF or whether the police had been informed. In one part of the evidence the car involved was said to be a Mercedes (P23/D3) and in the newspaper article, a Toyota (A87-9). The evidence relating to the television broadcasts was inconclusive. At the hearing before Immigration Judge Herbert only the February 2000 TV programme had been mentioned. There was confusion about the date when the appellant had first been arrested. She had given a date of broadcast as 13 May 1999 but subsequently said that she was arrested on 19 May 1999, the evening before the national holiday on 20 May 1999. There was no objective evidence to confirm that membership of the SDF by itself would put the appellant at risk. She accepted that it was clear from the medical evidence that something had happened to the appellant but her account of what had taken place was not credible. She submitted that it would be safe for the appellant to return. There was no reason to believe that the appellant's attendance at demonstrations in this country would have come to the attention of the authorities or that this would put her at any risk on return.
18. Ms Webber submitted that the appellant had given a credible account. Her evidence was corroborated by her son's evidence, the medical evidence and the evidence of Mr N. There was also documentary evidence to show that she had been a member of the Ngangue ward (A94-109) together with the letter from Innocent Nguiffo (A116) and a letter from the current ward president (A109-10). There was a press cutting about the appellant in La Cause and in Jeune Detective (A87-93). The concerns raised in the letter from the High Commission were offset by the further evidence from Mr N. The comments in the letter from Dr K had to be considered in the light of the later conversation with Mr N. Ms Webber did not seek to argue that the appellant would be at risk simply by virtue of being a member of the SDF but by reason of her own particular circumstances in the light of what had previously happened to her. There were no good reasons to consider that in her case the persecution she had suffered in the past would not be repeated.

The Law

19. The appellant would be entitled to asylum if owing to a well-founded fear of persecution for a Convention reason she is outside her country of nationality and is unable or, owing to such fear, is unwilling to avail herself of the protection of that country. The burden is on her to show there is a reasonable degree of likelihood of persecution for a

Convention reason if returned to Cameroon. This standard can also be expressed as whether there is a real risk of persecution. A similar test applies to the assessment of whether the appellant is entitled to a grant of humanitarian protection and whether there is a risk of a breach of the appellant's rights under Article 3. The Qualification Regulations 2006 and amendments to the Immigration Rules implement EU Council Directive 2004 83/EC on minimum standards for the assessment of refugee claims. By virtue of Regulation 1(2) we apply these provisions to all pending appeals.

The Background Situation in Cameroon

20. The history of Cameroon is summarised in paragraph 3.01 of the COIS Report of October 2006 at R31. Cameroon is a unitary republic with a multi-party presidential regime where opposition parties were legalised in 1990 but the preponderance of power remains with the President. The report describes Cameroon as generally enjoying stability and this has permitted the development of agriculture, roads and railways as well as the petroleum industry. Despite a slow movement toward democratic reform, political power remains firmly in the hands of the ethnic oligarchy headed by President Paul Biya. The SDF is one of the opposition parties and according to paragraph 17.02 of the COIS Report:

“In the early days of multi-party democracy President Biya's regime was seriously shaken by widespread opposition and protest. However, since then the CPDM and the President have managed to assert their dominance over the Cameroonian political scene although the SDF, led by Ni John Fru Ndi, has established itself as the main opposition party.”

21. The report confirms at paragraph 4.01 the evidence of Mr N that at the end of May 2006 the SDF split in two with John Fru Ndi and Bernard Muna heading each of the distinct factions. Fru Ndi was elected at the party's Bamenda Convention whilst the one held in Yaounde chose Muna to lead what its chief organiser, Clement Ngwasiri, calls the authentic SDF. It is also reported that Fru Ndi is now facing interrogation about the murder of Diboule Gregoire during a confrontation between supporters of the SDF rival factions.

22. The general situation outlined in the COIS Report is confirmed by the US State Department Report of 2006 (A103-127). This describes Cameroon as a republic dominated by a strong presidency and despite the country's multi-party system of government the CPDM has remained in power since it was created in 1985. It says that the government's human rights record remains poor and it continues to commit numerous human rights abuses. However, it does record that:

“Unlike previous years, there were no reports that government agents committed politically motivated killings; however, throughout the year the security forces have continued to commit unlawful killings including killings resulting from beatings and other use of excessive force.”

23. It confirms that in August Fru Ndi was charged with the murder of Diboule Gregoire which was still under investigation. When dealing with

political prisoners the report says that two groups of prisoners are held who could be considered political prisoners. The first relates to fifteen members of the SCNC serving long prison sentences following their 1999 convictions in military trials. Their trials and convictions are described as not meeting international or national legal standards and a number of international NGOs have criticised the trials as unfair. The second relates to the government continuing to hold two individuals widely considered by human rights NGOs to be political prisoners because of the irregularities in their trials and restricted access to counsel. These are a former Minister of Health and long-time aide to President Biya and his campaign manager. They were arrested in 1997 and convicted on charges of embezzling public funds.

24. The Amnesty International Report of 2006 for Cameroon refers to the appeals by the imprisoned members of the SCNC against their 1999 convictions. The appeal court in Yaounde quashed two of the convictions and reduced the sentences in respect of other prisoners. Those who have remained in custody have appealed to the Supreme Court. The US State Department Report confirms that there were no reports that security forces broke up or disrupted gatherings of the SDF during the year but administrative authorities banned marches and meetings that the SDF wanted to conduct in Douala and Limbe. In October 2005 a meeting of the National Executive Committee of the SDF in Limbe was banned on the grounds that internal fighting might disrupt public order.
25. In the Operational Guidance Note (OGN) on Cameroon issued 24 January 2007 the SDF is described as the largest opposition political party to play a major role in opposition political party activity and the contested elections in 2004. Unlike in 2004 there were no reports that security forces broke up or disrupted gatherings of the SDF during 2005. The SDF is a legally registered political party and has seats in the National Assembly and mayoral representations throughout the country. During the Fact Finding Mission to Cameroon in January 2004 John Fru Ndi told the UK delegation that the government officials and police harassed and intimidated members of the SDF and that people whose parents are members of the SDF were harassed and intimidated by the government and many young SDF supporters were also stopped from obtaining jobs or starting new businesses. It was also difficult for many young SDF supporters to live in Cameroon because of harassment and intimidation but it was noted that this form of intimidation was not used against all SDF members.
26. The OGN takes the view that the government in Cameroon took steps to advance human rights during 2005 and that there was a systematic effort to investigate, suspend and prosecute security force members accused of killings and other abuses. The control of administration of prisons was moved to the Ministry of Justice allowing for better tracking of prisoners from arrest to final trial sentencing. The government had also opened a new Department of Human Rights in the Ministry of Justice to investigate any abuses committed in areas under the

ministry's responsibility. Cameroon's human rights record had been poor but was showing gradual signs of improvement.

27. The conclusion reached by the OGN in respect of the risk to members of the SDF at paragraph 3.6.6 is as follows:

"Conclusion. The SDF is the largest opposition party to play a major role in opposition political activity. It is a registered party and therefore being a member is not illegal. Unlike in 2004 when the party's activities were restricted and targeted by the government, there were no reports of any such restrictions in 2005. Therefore membership of, involvement in, or perceived involvement in the SDF at any level is not likely to amount to ill-treatment that engages the UK's obligations under the 1951 Convention. The grant of asylum in such cases is therefore not likely to be appropriate and should be certified as clearly unfounded."

28. We also note from paragraph 17.10 of the COIS report:

"A UNHCR representative stated that although in the past particular groups have been persecuted by the state authorities, this is no longer the case. In the past members of the SCNC (Southern Cameroon National Council) faced harassment and inhuman treatment by the police."

29. Looking at the background evidence as a whole we agree with the conclusions set out in the OGN. On the basis of the evidence currently available membership of, involvement or perceived involvement in the SDF at any level is unlikely by itself to amount to give rise to a risk of persecution or ill-treatment engaging either the Refugee Convention or Article 3 of the Human Rights Convention. However, we accept in the light of Mr N's evidence and the evidence relating to the detention and imprisonment of SCNC supporters that some prominent active opponents of the government may, depending on their own particular profile and circumstances, continue to be at real risk of persecution.

Assessment of the Appellant's Evidence

30. We must consider firstly whether the appellant has given a credible account of events in Cameroon and of her reasons for leaving assessed in accordance with the lower standard of proof. She has given a consistent account of the two incidents she relies on, her kidnap and involvement in a staged car crash in May 1999 and her detention when she was repeatedly raped from April to August 2000. Her account is confirmed by the medical evidence to the extent that her injuries are found to be consistent with her description of how they were caused and also consistent with the violence directed towards women with the intention of rape. The evidence of her son confirms a continuing interest in the appellant and other family members. We also note that the appellant gave evidence at the hearing of her son's appeal and her account was accepted by the immigration judge.
31. The appellant also relies on the evidence of Mr N, a long time SDF activist who said that he had made enquiries with Innocent Nguiffo and

was able to confirm that the appellant had been a member of the Ngangue Ward. In the document at A94 the appellant is described as a Deputy Secretary General of the cell. There is a letter at A117 from Innocent Nguiffo purporting to confirm that following the appellant's appearance on the programmes "Expression Direct" she was kidnapped, molested and tortured causing her to be hospitalised for a considerable period of time. There is also a letter dated 20 February 2006 at A110A from the next Branch President. The fax from the High Commission of 17 February 2006 confirms that Innocent Nguiffo was the President of the Douala II electoral district until late 2004. The appellant has also referred to newspaper articles at A87-89 setting out details of the accident in May 1999. Oddly this refers to the car as a Toyota Corolla rather than a Mercedes as described by the appellant.

32. Set against this evidence, there is the evidence in the letter from the High Commission saying that those consulted either knew nothing about these incidents or believed that the claim by the appellant was not true. Mr N's evidence at 126-30 seeks to deal with these issues. He said that he had spoken to Dr K who said that when the embassy made its enquiries he sought to undertake what investigations he could but his organisation's resources were limited and had a different remit. They had been unable to investigate sufficiently whether the appellant's case was established or not. Mr N had been able to confirm the appellant's membership of the SDF. It is his view that the NCHRT was a government sponsored organisation and was apparently unreliable. He did know about ACAT but the organisation was almost unknown before 2000.
33. It was also argued on behalf of the respondent that the appellant had not used the correct names for relevant parts of the organisation of the SDF that she belonged to: see paragraph 2 of the letter from the High Commission. However, we attach little weight to this issue. The description of the various layers of the organisation will inevitably depend upon not only local descriptions but on how they are translated. The fact the appellant might have described one group as a "sub-group" seems to us to have little material bearing on the credibility of her account particularly in the light of the detailed evidence the appellant gave of the structures of the SDF in paragraphs 48-68 of her statement made on 19 April 2004 at 1A11-37. We also attach little weight to the fact that the newspaper article described the car as a Toyota Corolla when the appellant said it was a black Mercedes. We do accept that there are inconsistencies in the evidence as to when the kidnapping took place and whether the police were told. There is also some confusion about whether the appellant reported the matter to her local or to the national president but, looked at in the context of the evidence as a whole, these inconsistencies do not seriously undermine the appellant's evidence.
34. We must assess the evidence as a whole in the light of the relatively low standard of proof. The issues raised by the respondent do give rise to some doubts about aspects of the appellant's evidence but when we take into account the evidence which tends to confirm her account of

events we find that there is a reasonable degree of likelihood that the appellant has given a true account of what has happened to her in Cameroon and of her reasons for leaving.

Assessment of the risk to the Appellant on return

35. Ms Webber has not sought to argue that the appellant would be at risk solely because of her membership of the SDF. She argues that because of her previous activities, her family's connection with the SDF, her continued activities in this country and her association with Mr N, the appellant would still be at real risk on return.
36. We remind ourselves of the provisions of paragraph 339K of HC 395: the fact that a person has already been subject to persecution or serious harm should be regarded as a serious indication of a well-founded fear of persecution or real risk of suffering serious harm unless there are good reasons to consider that such persecution or serious harm will not be repeated. On the respondent's behalf it is argued that these events took place a long time ago and were instigated by one influential member of the ruling party who would now be unlikely to have any adverse interest in the appellant. The respondent also points to the fact that the situation in general terms in Cameroon has been improving. However, there is evidence that serious human rights abuses are continuing to take place in the Cameroon. It is argued that the split in the SDF may indicate that those who follow the faction led by Fru Ndi would no longer be at risk as they have tended to seek an accommodation with the ruling party whereas prominent activists in the Muna faction might still be regarded by the authorities as a real threat. The appellant did not leave detention lawfully but escaped by means of bribery and it is argued that there is therefore a risk that the security forces would rearrest her as someone who has escaped from detention. The appellant has continued to take part in demonstrations against the current authorities. There is no reason to believe that the animosity shown towards her by Mrs F would not be renewed if she were now to return as someone still opposed to the current government.
37. On the basis of the evidence before us we are not satisfied that we can yet say there is good reason to believe that persecution previously suffered by the appellant would not be repeated. She was deliberately targeted by a senior influential member of the governing party because of her and her family's political involvement. The appellant has continued to be politically active in support of the SDF and currently supports the faction which regards Fru Ndi as being willing to compromise with the present regime. We are satisfied that there would be a risk that Mrs F, whose power and influence is acknowledged in the information from the High Commission, may well seek to take action against a former political enemy who now supports what she might well regard as the more intransigent faction of the SDF. For these reasons we are satisfied that there is a reasonable degree of likelihood that the appellant in the light of her particular background and profile would still be at real risk of persecution or serious harm amounting to a breach of Article 3 on return to Cameroon.

Decision

38. For the reasons previously given, the original Tribunal did make a material error of law. We substitute a decision allowing the appeal on both asylum and human rights grounds.

Signed

Date: 23 April 2007

Senior Immigration Judge Latter

ANNEX A

Background evidence produced at the hearing

CIPU Report 2004

USSD Report 2004

IRB Canada Report 29 April 2005, Cameroon The Social Democratic Front

US State Department Report Cameroon 2006

Amnesty International Report Cameroon 2006

E-mail from Peter Geschiere, 2 March 2006

COIS Report Cameroon 27 October 2006

Operation Guidance Note Cameroon issued 24 January 2007

This list does not include documents referred to in paragraphs 4 and 16 which relate solely to the appellant's circumstances.