



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2023-003262

First-tier Tribunal Nos: PA/51165/2022  
IA/03320/2022

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On 18 December 2023**

**Before**

**UPPER TRIBUNAL JUDGE OWENS**  
**DEPUTY UPPER TRIBUNAL JUDGE ZUCKER**

**Between**

**HHT**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

**The Secretary of State for the Home Department**

Respondent

**Representation:**

For the Appellant: Mr S Chelvan, of Counsel, instructed by Duncan Lewis Solicitors  
For the Respondent: Mr T Melvin, Home Office Presenting Officer

**Heard at Field House on 8 December 2023**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.**

**No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.**

**DECISION AND REASONS**

1. The Appellant is a national of Cameroon whose date of birth is recorded as 7<sup>th</sup> July 1985. There is a significant immigration history to this case:
  - (i) 5<sup>th</sup> February 2011, the Appellant first entered the United Kingdom as a Tier 4 (General) Student valid until 27<sup>th</sup> August 2012.
  - (ii) 20<sup>th</sup> December 2011, the Appellant's leave was curtailed.
  - (iii) 6<sup>th</sup> February 2012, he applied for leave to remain as a Tier 4 (General) Student.
  - (iv) 21<sup>st</sup> December 2012, leave granted after reconsideration.
  - (v) 8<sup>th</sup> August 2013, he applied for leave to remain as a Tier 4 (General) Student.
  - (vi) 12<sup>th</sup> September 2013, leave granted to 30<sup>th</sup> April 2015.
  - (vii) 29<sup>th</sup> April 2015, he made application for leave to remain on human rights grounds.
  - (viii) 11<sup>th</sup> September 2015, the above application (vii) was refused.
  - (ix) 1<sup>st</sup> December 2016, the Appellant made application for international protection as a refugee.
  - (x) 1<sup>st</sup> June 2017, the above application (ix) was refused.
  - (xi) There was a reconsideration.
  - (xii) 27<sup>th</sup> July 2019, the above application (xi) was refused.
  - (xiii) Notice of Appeal lodged with the First-tier Tribunal.
  - (xiv) 20<sup>th</sup> July 2019, the appeal was dismissed by First-tier Tribunal Judge Lemer. (It is of note that that decision was not appealed. There was no challenge to it).
  - (xv) 20<sup>th</sup> March 2020, the Appellant made further representations.
  - (xvi) 26<sup>th</sup> March 2020, application (xv) was refused with no right of appeal.
  - (xvii) 17<sup>th</sup> November 2020, further submissions were made.
  - (xviii) 10<sup>th</sup> August 2021, application (xviii) was refused with no right of appeal.
  - (xix) 27<sup>th</sup> July 2021, the Appellant was detained with a view to him being removed.
  - (xx) 14<sup>th</sup> October 2021, permission was granted by Upper Tribunal Judge O'Callaghan for judicial review of the decision of the Respondent of 10<sup>th</sup> August 2021.

- (xxi) 18<sup>th</sup> October 2021, by consent the Appellant obtained leave to withdraw his judicial review application upon the Respondent agreeing to reconsider the decision of the 10<sup>th</sup> August 2021.
- (xxii) 3<sup>rd</sup> August 2022, a decision was made by Respondent to refuse the Appellant's protection and human rights claim.
- (xxiii) By notice dated 24<sup>th</sup> March 2022, the Appellant appealed the decision.
2. On 17<sup>th</sup> January 2023 the appeal was heard by First-tier Tribunal Judge Manuell ("Judge Manuell"). In a decision with reasons dated 27<sup>th</sup> January 2023, he dismissed the appeal on all grounds.
3. In summary, the factual matrix upon which the Appellant relied was that he feared return to Cameroon because of civil war, his Bamiléké ethnicity and imputed political opinion. The Appellant contended that on 22<sup>nd</sup> February 2002 his father, who had worked with President Paul Biya between 1989 and 2000, but had criticised him, had died in "mysterious" circumstances because of his father's political opinion. He submitted that his ethnicity in conjunction with his long residence in the UK would arouse the suspicion of the authorities and that he would be perceived to be a supporter of the opposition and at risk of serious harm.
4. This was a similar factual matrix to that relied on before First-tier Tribunal Judge Lemer ("Judge Lemer") in July 2019. In his decision Judge Lemer found that the appellant was not at risk of serious harm in Cameroon. The judge did not accept that his ethnicity combined with the period spent in the UK would place him at risk.
5. Before Judge Manuell, Dr Chelvan, submitted that Judge Lemer's findings had to be revisited in the light of the expert country reports of Dr Walker-Said, made available at the hearing before Judge Manuell; one dated 6 October 2020 and a supplementary report of January 2023.
6. It is important to note the procedural step that was taken in this matter before the appeal reached Judge Manuell. In granting the Appellant permission to appeal on his application for judicial review of the decision dated 10<sup>th</sup> August 2021 not to consider his further submissions as a fresh claim Upper Tribunal Judge O'Callaghan granted permission on one ground only:
- "In respect of her decision dated 10 August 2021 the respondent acted unreasonably by failing to lawfully consider paragraphs 54 and 55 of Dr Walker-Said's expert opinion, dated 6 October 2020, and so acted unlawfully in making an adverse decision under paragraph 353 of the Immigration Rules."*
7. In the decision of the Respondent which followed, dated 3<sup>rd</sup> March 2022 under Annex A, the Respondent, having raised **Devaseelan (Second Appeals, ECHR, Extra-Territorial Effect)** [2002] UKIAT 702 went on to reference the specific paragraphs identified in Judge O'Callaghan's grant of permission.
8. Judge Manuell found the appeal before him to be an attempt to relitigate the appeal that had been before Judge Lemer noting that the decision was not then appealed. His view was that the expert evidence was adduced as an attempt to explain the deficiencies in the Appellant's original evidence.

9. In making his findings, Judge Manuell took as his starting point the guidance in the case of **Devaseelan** and therefore looked to the findings of Judge Lemer, which findings are set out by Judge Manuell at paragraph 32 of his decision. Judge Manuell then observed that the claim, as advanced before Judge Lemer, had, “barely changed, if at all” save for the period of absence from Cameroon. Judge Manuell saw no reason to depart from Judge Lemer’s findings. We return to that observation made by Judge Manuell “save for the period of absence from Cameroon” below.
10. Not content with that decision, by notice dated 10<sup>th</sup> February 2023, the Appellant made an application to appeal to the Upper Tribunal resulting in permission being granted on 8<sup>th</sup> August 2023 by First-tier Tribunal Judge Karbani.
11. Three grounds were raised which in summary were as follows:
- (a) “the First-tier Tribunal erred in law in relying on **Devaseelan** in subsequent second appeals arising from fresh claims, noting **Devaseelan** is limited to **Pardeepan (pre 2000 decision: human rights) Sri Lanka\* [2000] UKIAT 000006** cases where there has been no merits review of the earlier protection claim pursuant to paragraph 353 of the Immigration Rules;
  - (b) the First-tier Tribunal materially erred in law in dismissing the weight to be attached to the country expert evidence and risk on return in proceedings where the **Surendran Guidelines** apply, and the respondent stated in the reason for refusal letter that the evidence was not sufficient to demonstrate that “all” members of the risk group would be at real risk of persecution;
  - (c) if Devaseelan still applies to non Pardeepan second appeals, the 2023 First-tier Tribunal materially erred in law in relying on the 2019 First-tier Tribunal determination as a “starting point” for the credibility assessment, where the 2019 First-tier Tribunal determination was unlawful, because Judge Lemer should have addressed the earlier 2012 First-tier Tribunal determination as the starting point. In that appeal, the Appellant was found to be credible in his appeal against the decision to refuse him further leave as a student. That positive credibility assessment should have been the starting point for the subsequent 2019 proceedings.
12. At the outset we indicated to Dr Chelvan, subject to any submissions he might make, that we thought there was little merit in Grounds 1 and 3. However, we thought that there might well be some merit in Ground 2 and on that basis, we invited Mr Melvin for the Respondent to assist us.
13. Mr Melvin’s submissions were entirely in line with the response which had been filed on behalf of the Respondent, namely that Judge Manuell had adequately dealt with the issues which had been raised in the expert evidence, namely that since the decision of Judge Lemer, there had been a gap of some years and that that gap was material to the risk which this Appellant faced. We return to the expert evidence below but looking to the decision, at paragraph 37, Judge Manuell said,

*“As part of his attempt to reopen Judge Lemer’s findings, the Appellant produced a country background report (with supplement) prepared by Dr Walker-Said which pronounced the Appellant’s account plausible. Dr*

*Walker-Said has been to Cameroon a number of times, including recently, and has extensive contacts there."*

14. The expertise of Dr Walker-Said was not challenged by the Respondent.
15. Further on at paragraph 37 Judge Manuel said: "The tribunal can, however, give her report little weight....Her report presented a survey of current conditions in Cameroon which was little different in substance from that in the three Country Policy Information Notes ("CPIN") reports, save to the extent that Dr Walker-Said considered that all Bamiléké persons were at risk."
16. The reasons for refusal letter, which was being appealed, dated 3<sup>rd</sup> March 2022 stated,

*"It is noted above that Anglophones do face some discrimination [the Appellant is an Anglophone], however being an Anglophone does not mean you would be subject to risk of ill treatment or persecution on return to Cameroon.*

*Despite Dr Walker-Said's report indicating that individuals who are of Bamiléké ethnicity and have been outside of Cameroon for a significant period of time would be viewed as sympathetic to anti-government groups and causes, the evidence provided does not demonstrate that all who are suspected are subject to treatment which, by its nature and/or repetition, or by a combination of measures, amounts to persecution according to the recent country guidance quoted above".(our emphasis)*

17. Although it may well be, and we have no reason to doubt that Judge Manuel would have read the reports, it is not at all clear from the decision that he did so. It is certainly not reflected in what he had to say, save that the word "all" which appears in the refusal letter seems to be mirrored in his decision. That is of some concern. What is clear from the submissions that were put before us by Dr Chelvan, and which we accept, was that the CPIN Reports were dated 2020. All of three of them. So too was the first report of Dr Walker-Said.
18. The earlier report of Dr Walker-Said clearly dealt with the circumstances of all individuals of Bamiléké ethnicity but also dealt with the individual circumstances of the Appellant himself. At paragraphs 54 and 55 of her report, she identified that the risk profile to this particular Appellant was not just because of his Bamiléké background but because of the length of time that he had lived outside of Cameroon in an English speaking (Anglophone) country. At paragraph 54 she stated that a Bamiléké man who has lived abroad in an Anglophone country for over a decade would very likely be presumed to be strongly sympathetic with an Anglophone cause as the government has suspected a strong Anglophone Bamiléké alliance for many years and the current crisis has made this reality more apparent. At paragraph 55 she states the Appellant is at risk of arrest and imprisonment as well as torture, incommunicado detention and extrajudicial killing upon return to Cameroon and goes on again to state that his lengthy residence outside of Cameroon (in an Anglophone country), implies that his political viewpoints and his cultural loyalties are not aligned with the ruling CDMP Party. This was clearly identified in the report as an individual factor which would place this Appellant at risk. This does not appear to enter into the consideration of the expert evidence by Judge Manuel who does not engage with the Appellant's additional risk factor of being absent from Cameroon for twelve years.

The focus of his findings are that the expert report does not go further than the three CPIN reports.

19. Furthermore, Judge Manuell's reading of the reports are that Dr Walker-Said considered that all Bamiléké persons were at risk. We are not in agreement. From a reading of her report, it is not asserted that all Bamiléké persons are at risk. The report specifically deals with the profile of this Appellant, and it is this profile which Judge Manuell failed to engage in the paragraphs dealing with the reports.
20. Secondly, Judge Manuell's reasoning appears to be on the basis that neither the Appellant's mother or grandmother, who share his ethnicity and connections and who are in Cameroon have suffered any harm. However, Judge Manuell failed to take into consideration that the Appellant's mother and grandmother do not have the additional risk factor of being absent from Cameroon in an Anglophone country for twelve years, and that the Appellant is of the male sex, and furthermore a Rastafarian, which makes him more distinctive. So, on that basis, we are completely satisfied that Judge Manuell's treatment of the expert evidence is flawed by reason of inadequate reasons.
21. We would add to that, that there was no sufficient basis in our view for Judge Manuell so easily dismissing the length of time which the Appellant had spent outside the country, by his apparent ability, imputed to him by Judge Manuell, of being able to explain on return that he had spent his time in the UK as a student. This was not consistent with the expert evidence that a person who had spent a long period in an Anglophone country and who is of Bamiléké ethnicity has cumulative risk factors. The other significant point, taken by Mr Chelvan was that the **Surendran Guidelines** applied. The Secretary of State was not represented at the hearing. If Judge Manuell had concerns about this he should at the very least have put these to the Appellant's representative but there is no sufficient evidence that that was done in a way which would have been compliant with the guidelines to which we refer.
22. The other error in respect of Judge Manuell's treatment of the expert evidence is the lack of recognition that the more recent addendum report dated January 2023 was written several years after the 2020 CPIN Reports and that it documents the deteriorating situation in Cameroon particularly with respect of the mistrust that the Cameroonian government feels towards those of Bamiléké ethnicity. At paragraph 51 of the report, it states:
 

*“My opinion is based on the overwhelming evidence that exists in Cameroon today, particularly in recent months and even recent weeks, that demonstrates that Bamiléké citizens in Cameroon are often suspected of being allied with opposition political parties and/or the Anglophone separatist movement and are at very high risk of arrest, detention, torture, and in some cases death or extrajudicial killing.”*
23. There is no acknowledgement of this at all in Judge's Manuell's treatment of the addendum report and at paragraph 38 when he states that he agreed with the Respondent that Dr Walker Said's opinion is too pessimistic an assessment and that any risk to Bamiléké persons generally fell short of being a real risk of persecution. The judge completely failed to deal with the most recent evidence, but rather assumed that the situation was as it was in 2020 rather than acknowledging the evidence of the expert that there had been a significant

deterioration in the situation since then and further that the Appellant's absence was even longer.

**Error of Law Decision**

24. In these circumstances we are satisfied the decision is flawed because of the inadequate consideration of the expert evidence. and that this error was material to the outcome of the appeal. We set aside the decision in its entirety.

**Remaking**

25. When we indicated to Mr Melvin that we were minded to remake the decision, he said that he had not had the opportunity to consider the additional expert report of Dr Walker-Said of January 2023. We have to say we find that somewhat disappointing. That report had been before Judge Manuell as long ago as 17 January 2023 because Judge Manuell specifically refers to it in his decision. Quite why Mr Melvin had not had an opportunity to read it, is not understood. We were satisfied however that the Respondent has had the report in his possession prior to the hearing before Judge Manuell and frankly it would not have taken very long to read its twenty pages or so. Although we heard Mr Melvin, therefore, we saw no reason to stand the matter down or adjourn for re-making.
26. We find ourselves able to remake the decision on the basis of the findings that have already been made by Judge Lemer, which were that the Appellant is a citizen of Cameroon, his father had a high-level job within the Cameroon government, working at one point for the General Secretariat of the President, and that he is of Bamiléké ethnicity. We also find that the Appellant is not himself active in politics either in Cameroon or in the diaspora, that can be no dispute that has now been out of the country since his arrival in the United Kingdom in 2011, which is twelve years ago and that he is a Rastafarian and an Anglophone.
27. We have no hesitation in relying on the expert reports before us to find that the Appellant would be at risk of serious harm on his return to Cameroon. We are satisfied to the lower standard that he would be questioned on his return and because of his particular profile there would be a real likelihood that he would be suspected of supporting anti-government groups and causes and that in the current febrile situation in Cameroon that there would be a real risk to him of serious harm.

**Notice of Decision**

28. The appeal of the First-tier Tribunal is remade and allowed, such that the Appellant is entitled to international protection as a refugee. We do not allow the appeal in respect of humanitarian protection. The appeal is necessarily allowed on human grounds, Articles 3 and 8.



Deputy Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**12 December 2023**