



**U.S. Department of Justice**

Executive Office for Immigration Review

*Board of Immigration Appeals  
Office of the Clerk*

5107 Leesburg Pike, Suite 2000  
Falls Church, Virginia 22041

**Powers, Ruby Lichte  
Powers Law Group, P.C.  
5225 Katy Freeway  
Suite 300  
Houston, TX 77007**

**DHS/ICE Office of Chief Counsel  
Montgomery Proc Ctr, 806 Hilbig Rd  
Conroe, TX 77301**

**Name: N [REDACTED] A [REDACTED], C [REDACTED]**

**A [REDACTED]-484**

**Date of this notice: 9/12/2019**

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

*Donna Carr*

Donna Carr  
Chief Clerk

Enclosure

Panel Members:  
Guendelsberger, John  
Grant, Edward R.  
Kelly, Edward F.

Userteam: Docket

For more unpublished decisions, visit  
[www.irac.net/unpublished/index](http://www.irac.net/unpublished/index)

*ng*

Falls Church, Virginia 22041

---

File: [REDACTED]-484 – Conroe, TX

Date:

SEP 12 2019

In re: C [REDACTED] N [REDACTED] A [REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Ruby Lichte Powers, Esquire

ON BEHALF OF DHS: Nora E. Norman  
Assistant Chief Counsel

APPLICATION: Asylum; withholding of removal; Convention Against Torture

The respondent, a native and citizen of Cameroon, has appealed the Immigration Judge's March 18, 2019, decision denying her applications for asylum, withholding of removal, and request for protection under the Convention Against Torture. Sections 208(b)(1)(A), 241(b)(3)(A) of the Immigration and Nationality Act (Act), 8 U.S.C. §§ 1158(b)(1)(A), 1231(b)(3)(A); 8 C.F.R. §§ 1208.13, 1208.16-1208.18. The Department of Homeland Security opposes the appeal, and moves for summary affirmance of the Immigration Judge's decision. The appeal will be sustained.

We review an Immigration Judge's findings of fact, including the credibility determination, under the “clearly erroneous” standard. 8 C.F.R. § 1003.1(d)(3)(i). We review all other issues, including issues involving questions of law, judgment and discretion, under a de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii).

The respondent sought asylum based on her political opinion and her membership in a particular social group composed of “Anglophone-speaking students in Cameroon who actively protest the French-speaking indoctrination” (IJ at IV/D; Exh. 3). Specifically, she testified that she supported the Southern Cameroons National Council’s (SCNC) anti-Francophone efforts by participating in a strike by English-speaking teachers, and refusing to attend school taught by French-speaking teachers (Tr. at 25, 40, 47-53, 66-69, 83-84). She reported that she was arrested on February 5, 2018, and April 25, 2018, was detained for 5 and 12 days, respectively, during which time she was beaten.

The Immigration Judge found the respondent credible, and that the harm she experienced had been at the hands of the Cameroon government<sup>1</sup> (IJ at III, IV/E). However, he denied asylum and withholding of removal, finding that the respondent did not demonstrate that the harm she experienced rose to the level of harm required for past persecution, that any harm she experienced was on account of her political opinion or her membership in a particular social group, or that she had a well-founded fear of future persecution. He also found that she did not demonstrate that she

<sup>1</sup> As the Immigration Judge's decision was not paginated, we are unable to cite to specific pages where referenced information is located. Instead we have referred to the relevant section of the decision as annotated by the Immigration Judge.

more likely than not would be subjected to torture for purposes of protection under the Convention Against Torture (IJ at IV/C, D, F; V). On appeal, the respondent has challenged these findings.

The Immigration Judge found that whether the respondent experienced past persecution was a “somewhat close call” (IJ at IV/C). The circuit where this case arises has described persecution as “[t]he infliction of suffering or harm, under government sanction, upon persons who differ in a way regarded as offensive (e.g., race, religion, political opinion, etc.), in a manner condemned by civilized governments.” *Abdel-Masieh v. U.S. INS*, 73 F.3d 579, 583–84 (5th Cir. 1996). “The harm or suffering need not be physical, but may take other forms, such as the deliberate imposition of severe economic disadvantage or the deprivation of liberty, food, housing, employment or other essentials of life.” *Id.* Persecution is an extreme concept that does not include all treatment our society regards as offensive. *See, e.g., Arif v. Mukasey*, 509 F.3d 677, 680 (5th Cir. 2007); *Majd v. Gonzales*, 446 F.3d 590, 595 (5th Cir. 2006).

The respondent testified that she was imprisoned in overcrowded cells on two occasions for a total of more than 2 weeks, during which time she was mistreated, punched and beaten up to three times a day by guards using both belts and their hands to the point where she barely could sit down and her body was swollen with rashes that continue bother her (Tr. at 49-53, 69; Exh. 3).

We initially note that the majority of the cases cited by the Immigration Judge in evaluating whether the harm experienced by the respondent rose to the level of persecution were not issued by the circuit where this case arises. *See Matter of K-S-*, 20 I&N Dec. 715 (BIA 1993) (the Board is bound to apply the law of the circuit in cases arising in that circuit); *Matter of Anselmo*, 20 I&N Dec. 25 (BIA 1989) (same). Moreover, the facts presented in this case are distinguishable from the decisions cited by the Immigration Judge which were issued by the United States Court of Appeals for the Fifth Circuit. *See Eduard v. Ashcroft*, 379 F.3d 182, 188 (5th Cir. 2004) (holding that substantial evidence supported a finding that the harm did not rise to the level of past persecution where the individual had experienced harassment, threats, and one episode of minor violence); *Abdel-Masieh v. U.S. INS*, 73 F.3d at 583-84 (two arrests, two detentions, and beatings not characterized as severe did not rise to level of past persecution). We agree with the respondent that the mistreatment she experienced at the hands of the government was severe, constituted “extreme conduct,” and did rise to the level of harm constituting persecution.

Turning to the nexus issue, the respondent must demonstrate that the harm suffered was on account of a protected ground. In evaluating nexus, the Immigration Judge found that her political opinion claim “overlap[ped]” with her particular social group claim (IJ at IV/D). While the Immigration Judge evaluated the respondent's particular social group claim, he neglected to conduct a separate analysis of her political opinion claim. The Immigration Judge summarily stated that she had not “satisfied her burden of showing past persecution on account of her political opinion.” In so finding, he reasoned that the central motive for the harsh treatment of the student protestors was on account of the disruption of the school day and their truancy, and that the government had a right to stop students from protesting “*when they were supposed to be in school*” (IJ at IV/D, emphasis in original). Under a “mixed motive” analysis, however, the finding that the respondent was targeted for protesting while truant does not diminish the political nature of the protest and her own strongly held political views.

The Immigration Judge's own underlying findings of fact, based on the respondent's credible testimony and the objective background evidence of country conditions in Cameroon, indicate that at least one central reason for the harm inflicted on the respondent was her engagement in a political protest against a national government policy. Grossly disproportionate punishment in the context of a protest against government policy in the ongoing political struggle in Cameroon strongly indicates that political opinion or imputed political opinion was a central reason for the harm inflicted on the respondent during her government detention. While controlling student protests may have been a part of the reason for the government actions directed at the respondent, the facts and context in which the student protests occurred in this case indicate that the respondent's political opinion was also a central reason for her detention and her mistreatment while detained. We therefore find that the respondent established that she suffered past persecution on account of her political opinion.

Under the circumstances in this case, there is no indication of a fundamental change in country conditions or other circumstances that would potentially rebut the presumption of a well-founded fear of persecution based on the finding of past persecution. 8 C.F.R. § 1208.13(b)(1)(A). Nor does relocation within Cameroon appear to be a reasonable option. 8 C.F.R. § 1208.13(b)(3)(ii). Finally, the record does not indicate any basis for a discretionary denial of asylum. As we find the respondent eligible for asylum, we do not address her claim for withholding of removal or protection under the Convention Against Torture.

ORDER: The appeal is sustained and the respondent is found eligible for asylum.

FURTHER ORDER: Pursuant to 8 C.F.R. § 1003.1(d)(6), the record is remanded to the Immigration Judge for the purpose of allowing the Department of Homeland Security the opportunity to complete or update identity, law enforcement, or security investigations or examinations, and further proceedings, if necessary, and for the entry of an order as provided by 8 C.F.R. § 1003.47(h).

  
\_\_\_\_\_  
FOR THE BOARD