

United States Court of Appeals  
for the Fifth Circuit

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No. 20-60487

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United States Court of Appeals  
Fifth Circuit

**FILED**

January 12, 2022

Lyle W. Cayce  
Clerk

TARLISHI EMMANUEL-TATA,

*Petitioner,*

*versus*

MERRICK GARLAND, U.S. ATTORNEY GENERAL,

*Respondent.*

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Petition for Review of an Order of the  
Board of Immigration Appeals  
BIA No. A203 604 285

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Before CLEMENT, SOUTHWICK, and WILLETT, *Circuit Judges.*

PER CURIAM:\*

Tarlishi Emmanuel-Tata, a native and citizen of Cameroon, petitions for review of the Board of Immigration Appeals' decision affirming the Immigration Judge's denial of his claims for asylum, withholding of removal, and protection under the Convention Against Torture. We GRANT the petition for review and REMAND for further consideration.

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\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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## FACTUAL AND PROCEDURAL BACKGROUND

Emmanuel-Tata entered the United States without authorization on July 3, 2019. That same day, he was taken into custody and processed for expedited removal. He expressed fear of torture or persecution if he returned to Cameroon. On September 9, 2019, an asylum officer conducted a credible-fear interview of him.

Emmanuel-Tata explained during this interview that he feared harm upon return to Cameroon based on his experience of being arrested, detained, and then beaten by the police for his political opinion. The asylum officer found his fear credible. Three days later, on September 12, 2019, the Department of Homeland Security served him with a Notice to Appear, charging him as removable. Emmanuel-Tata admitted to the allegations in the Notice to Appear and filed applications for asylum, withholding of removal, and protection under the Convention Against Torture (“CAT”).

The Immigration Judge (“IJ”) held a hearing on December 5, 2019, to determine the merits of his applications. There, Emmanuel-Tata clarified that his claims were based on a fear of persecution both for his political opinion supporting the Southern Cameroon National Council (“SCNC”) — an organization that advocates for “the restoration of Cameroon” — and as an Anglophone Cameroonian (*i.e.*, an English speaker), a social group that he says is subject to persecution in Cameroon. He testified and provided affidavits from his wife, brother-in-law, and his neighbor to support his claims.

He testified that he was arrested on September 22, 2017, at Bamenda City Square in Cameroon during a SCNC-organized protest. This protest was intended to oppose the marginalization and discrimination of Anglophones. In particular, the protest addressed the government’s effort to arrest and torture Anglophone lawyers and teachers who went on strike

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after the government attempted to eliminate the Anglophone education system and common law.

At the protest, officers arrested Emmanuel-Tata while he was marching with a flag that represented the restoration of Southern Cameroon's independence. He was put in a van with other protesters and detained at the Bamenda police station in a cell with 30 other protestors. The officers beat them several times a day. He testified they "beat [him] with rubber batons, hit [him] with their guns, kicked [him] with their boots on [his] legs," and forced everyone to sit in the sun for three hours every day. On September 20, 2017, they beat him for more than an hour. Emmanuel-Tata further testified the officers said they would kill him because he wanted to separate from the country. Emmanuel-Tata thought the officers were beating him in particular because they saw him carrying the flag at the protest.

After five days, he was released. He was required to provide identifying information such as his name, fingerprints, and address, and the officers charged him with the crime of wanting to separate from the country. He then went directly to a medical clinic to treat his swollen legs, wounds on his legs, effects from being in the sun too long, bruises on his legs and buttocks, bleeding on the soles of his feet, and pain. He received medication and injections for his injuries and was released from the clinic the same day.

On October 1, 2017, three days after release, Emmanuel-Tata participated in another march. The police also broke up this march and beat him, but he was able to escape to his mother-in-law's house. Soon after, Emmanuel-Tata learned the police posted a summons for him related to the September protest, so he decided to leave for Douala, another city in Cameroon. He remained in Douala for 15 months without government interference. He left because his uncle, a police investigator, informed him the police were conducting general checks for Anglophones. After leaving Douala, he made his way to the United States.

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The affidavits Emmanuel-Tata provided the immigration court also described his arrest and detention experience. All three included a statement discussing how the Cameroonian government targets Anglophones. The affidavits also discussed the Cameroonian government's violent acts toward Anglophones and those who want to separate from the country.

The IJ denied Emmanuel-Tata's applications for asylum, withholding of removal, and protection under the CAT. The IJ found Emmanuel-Tata credible but determined he did not satisfy the requirements to obtain relief. Emmanuel-Tata appealed to the Board of Immigration Appeals ("BIA"), and the BIA upheld the IJ's decision. Emmanuel-Tata then petitioned for our review.

#### DISCUSSION

This court reviews the BIA's factual determinations for substantial evidence and reviews conclusions of law *de novo*. *Mireles-Valdez v. Ashcroft*, 349 F.3d 213, 215 (5th Cir. 2003). The BIA's factual determinations may not be reversed unless the court decides "not only that the evidence supports a contrary conclusion, but also that the evidence *compels* it." *Zhao v. Gonzales*, 404 F.3d 295, 306 (5th Cir. 2005) (quotation marks omitted). The applicant has the burden to show that the evidence is "so compelling that no reasonable factfinder could reach a contrary conclusion." *Chen v. Gonzales*, 470 F.3d 1131, 1134 (5th Cir. 2006).

This court also reviews the BIA's decision "procedurally to ensure that the complaining alien has received full and fair consideration of all circumstances that give rise to his or her claims." *Abdel-Masieh v. INS*, 73 F.3d 579, 585 (5th Cir. 1996) (quotation marks omitted) (quoting *Zamora-Garcia v. INS*, 737 F.2d 488, 490 (5th Cir. 1984)). Though the BIA is not required to "address evidentiary minutiae or write any lengthy exegesis," it must show "meaningful consideration of the relevant substantial evidence

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supporting the alien's claims." *Id.* at 585. Failure to do so is considered error. *See Cabrera v. Sessions*, 890 F.3d 153, 162–63 (5th Cir. 2018).

Emmanuel-Tata challenges both the BIA's factual determinations and whether it gave his claims full and fair consideration. We begin by examining Emmanuel-Tata's argument that the BIA failed to consider all the evidence. This argument relies on a BIA statement that the record "does not contain any country conditions evidence indicating that Anglophones are regularly subject to persecution," and that "[t]he record does not contain any country conditions evidence indicating the type of punishment the respondent may face as a result of his criminal charges." There is such evidence, though. During his hearing on December 5, 2019, Emmanuel-Tata testified about the Cameroonian government's mistreatment of Anglophones. He also introduced affidavits from his wife, neighbor, and brother-in-law that describe events related to the Anglophone lawyer-and-teacher strike, the government's desire to marginalize Anglophones, and violence against Anglophones and separatists.

The significance of the overlooked evidence is clear. The BIA must consider the relevant country conditions evidence in order to assess the sufficiency of claims for asylum, withholding of removal, or protection under the CAT. When making either an asylum or a withholding of removal claim, a petitioner must show a well-founded fear of persecution upon return to his home country. 8 C.F.R. § 208.13(b). A petitioner can establish this either by providing evidence to the BIA of past persecution or "a pattern or practice in his or her country . . . of persecution of a group of persons similarly situated to the applicant on account of race, religion, nationality, membership in a particular social group, or political opinion." *Id.* The evidence the BIA overlooked sheds light on a pattern or practice of persecuting Anglophones or separatists like Emmanuel-Tata exists in Cameroon. Therefore, the BIA

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did not meaningfully consider all the relevant evidence on Emmanuel-Tata's asylum or withholding of removal claims. *See Abdel-Masieh*, 73 F.3d at 585.

Likewise, resolving a request for protection under the CAT requires the BIA to consider country conditions evidence. *Arulnanthy v. Garland*, 17 F.4th 586, 598 (5th Cir. 2021). That is because the BIA must consider "all evidence relevant to the possibility of future torture," which includes "relevant information regarding conditions in the country of removal." 8 C.F.R. § 1208.16(c)(3). That does not mean the BIA is required to address every piece of evidence a petitioner submits. In this case, though, the country conditions evidence the BIA stated did not exist in the record provides significant support for Emmanuel-Tata's claim. We have determined that a failure to mention "key evidence" like this raises too great a concern that the BIA did not adequately consider the evidence before it. *See id.*

Because the BIA erroneously found there was no record evidence about relevant country conditions, Emmanuel-Tata did not receive "meaningful consideration of the relevant substantial evidence supporting" his claims. *See Abdel-Masieh*, 73 F.3d at 585. We therefore reverse the BIA's decision. We need not further consider the BIA's factual determinations.

The petition for review is GRANTED and we REMAND to the BIA for further consideration.