NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARISA SETYAWATI WISNUBROTO; et al.,	No. 08-73177
Petitioners,	Agency Nos. A098-148-877
v.	A098-148-878
	A098-148-879
	A098-148-880
ERIC H. HOLDER, Jr., Attorney General,	
Respondent.	MEMORANDUM[*]

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted August 2, 2011[**]

Before: RYMER, IKUTA, and N.R. SMITH, Circuit Judges.

Marisa Setyawati Wisnubroto, and her family, natives and citizens of

Indonesia, petition for review of the Board of Immigration Appeals" ("BIA") order

dismissing their appeal from an immigration judge's decision denying their

application for asylum and withholding of removal. We have jurisdiction under 8

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[*]   This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

[**]   The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

U.S.C. § 1252. We review for substantial evidence factual findings. *Wakkary v. Holder*, 558 F.3d 1049, 1056 (9th Cir. 2009). We grant the petition for review, and we remand.

Substantial evidence supports the BIA's finding that petitioners' experiences, including the threatening phone calls they received, did not rise to the level of persecution. *See Wakkary,* 558 F.3d at 1059-60. However, in assessing petitioners' future fear, as ethnically Javanese Evangelical Christians, the BIA did not have the benefit of our intervening decision in *Tampubolon v. Holder*, 610 F.3d 1056 (9th Cir. 2010). Accordingly, we grant the petition for review and remand for the BIA to consider petitioners' asylum and withholding of removal claims under the disfavored group analysis in the first instance. *See INS v. Ventura*, 537 U.S. 12, 16-18 (2002) (per curiam).

PETITION FOR REVIEW GRANTED; REMANDED.