

AUG 15 2014

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>LEI LIU,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 11-73249

Agency No. A089-750-464

MEMORANDUM*

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

Submitted August 13, 2014**

Before: SCHROEDER, THOMAS, and HURWITZ, Circuit Judges.

Lei Liu, a native and citizen of China, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s decision denying his application for asylum, withholding of removal, and protection under the Convention Against Torture (“CAT”). We have jurisdiction

* 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).

under 8 U.S.C. § 1252. We review for substantial evidence findings of fact and de novo questions of law. *Jiang v. Holder*, 611 F.3d 1086, 1091 (9th Cir. 2010). We deny in part and grant in part the petition for review, and we remand.

Substantial evidence supports the denial of Liu's CAT claim, because he has not shown it is more likely than not he will be tortured by or with the consent or acquiescence of the government of China if he is returned. *See Zheng v. Holder*, 644 F.3d 829, 835 (9th Cir. 2011).

The record compels the conclusion that the harms Liu suffered due to his resistance to China's coercive population control policies rose to the level of persecution. *See Jiang*, 611 F.3d at 1095-97 (mistreatment including petitioner's detention and partner's forced abortion compelled finding that harm rose to the level of persecution). Thus, we grant the petition for review as to Liu's asylum and withholding of removal claims, and remand for further proceedings consistent with this disposition. *See INS v. Ventura*, 537 U.S. 12, 16-18 (2002) (per curiam).

Each party shall bear its own costs for this petition for review.

**PETITION FOR REVIEW DENIED in part; GRANTED in part; and
REMANDED.**