

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 29 2024

FOR THE NINTH CIRCUIT

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

MILAGRO SUYAPA MORALES-  
SALINAS; et al.,

Petitioners,

v.

MERRICK B. GARLAND, Attorney  
General,

Respondent.

No. 23-1064

Agency Nos.

A097-544-068

A206-758-653

A206-758-654

MEMORANDUM\*

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

Submitted February 21, 2024\*\*

Before: FERNANDEZ, NGUYEN, and OWENS, Circuit Judges.

Milagro Suyapa Morales-Salinas and her children, natives and citizens of Honduras, petition pro se for review of the Board of Immigration Appeals’ (“BIA”) orders dismissing their appeal from an immigration judge’s (“IJ”) decision

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

denying the childrens’ applications for asylum, and petitioners’ applications for withholding of removal and protection under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review de novo the legal question of whether a particular social group is cognizable, except to the extent that deference is owed to the BIA’s interpretation of the governing statutes and regulations. *Conde Quevedo v. Barr*, 947 F.3d 1238, 1241 (9th Cir. 2020). We review for substantial evidence the agency’s factual findings. *Id.* at 1241-42. We deny the petition for review.

Substantial evidence supports the agency’s determinations that petitioners failed to establish they were or would be persecuted on account of their membership in the proposed particular social group of “immediate family member of – Wualter Murillo Flores,” or any other protected ground. *See Ayala v. Holder*, 640 F.3d 1095, 1097 (9th Cir. 2011) (even if membership in a particular social group is established, an applicant must still show that “persecution was or will be *on account of* his membership in such group”).

The BIA did not err in concluding that Morales-Salinas failed to establish the cognizability of her particular social group of “parents of children targeted for recruitment.” *See Reyes v. Lynch*, 842 F.3d 1125, 1131 (9th Cir. 2016) (to demonstrate membership in a particular social group, “[t]he applicant must ‘establish that the group is (1) composed of members who share a common

immutable characteristic, (2) defined with particularity, and (3) socially distinct within the society in question” (quoting *Matter of M-E-V-G-*, 26 I. & N. Dec. 227, 237 (BIA 2014)); *see also* *Nguyen v. Barr*, 983 F.3d 1099, 1103 (9th Cir. 2020) (“The particularity element requires characteristics that provide a clear benchmark for determining who falls within the group,” and “[t]he group must also be discrete and have definable boundaries—it must not be amorphous, overbroad, diffuse, or subjective.” (internal quotation marks and citations omitted)).

Thus, the children’s asylum claims fail. Because petitioners failed to establish any nexus to a protected ground, they also failed to satisfy the standard for withholding of removal. *See Barajas-Romero v. Lynch*, 846 F.3d 351, 359-60 (9th Cir. 2017).

Because petitioners do not contest the BIA’s determination that they waived challenge to the IJ’s dispositive determination that they did not show they would be tortured by or with the consent or acquiesce of the government, we do not address it. *See Lopez-Vasquez v. Holder*, 706 F.3d 1072, 1079-80 (9th Cir. 2013). We do not address petitioners’ remaining contentions as to the merits of their CAT claims because the BIA did not deny relief on these grounds. *See Santiago-Rodriguez v. Holder*, 657 F.3d 820, 829 (9th Cir. 2011) (“In reviewing the decision of the BIA, we consider only the grounds relied upon by that agency.” (citation and internal quotation marks omitted)).”

Because petitioners do not challenge the agency's determinations regarding their remaining gender and family-based particular social groups, humanitarian asylum, lack of jurisdiction based on insufficient notice, and due process contentions, we do not address them. *See Lopez-Vasquez*, 706 F.3d at 1079-80.

The temporary stay of removal remains in place until the mandate issues.

**PETITION FOR REVIEW DENIED.**