

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 31 2026

FOR THE NINTH CIRCUIT

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

LEONIDES RODAS-URIAS; VIRGINIA
CRUZ PEREZ; JORGE LUIS ZAVALA
CRUZ,

Petitioners,

v.

TODD BLANCHE, Attorney General,

Respondent.

No. 22-810

Agency Nos.

A206-093-435

A206-093-436

A206-093-440

MEMORANDUM*

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

Argued and Submitted July 10, 2026
Portland, Oregon

Before: GRABER, BERZON, and SUNG, Circuit Judges.

Petitioners Leonides Rodas-Urias, Virginia Cruz-Perez, and Jorge Luis Zavala-Cruz seek review of a Board of Immigration Appeals (“BIA”) decision dismissing their appeal of an immigration judge’s (“IJ”) denial of their applications for asylum, withholding of removal, and relief under the Convention Against

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

Torture (“CAT”). Rodas-Urias is a native and citizen of El Salvador; Cruz-Perez and Zavala-Cruz are natives and citizens of Mexico.

We review the denial of asylum, withholding of removal, and CAT claims for substantial evidence. *Duran-Rodriguez v. Barr*, 918 F.3d 1025, 1028 (9th Cir. 2019). We may reverse the BIA only if the record “not only *supports* a contrary conclusion, but *compels* it.” *Silva-Pereira v. Lynch*, 827 F.3d 1176, 1184 (9th Cir. 2016) (citation omitted). Where, as here, the BIA conducts its own review of the evidence and law, and incorporates some of the IJ’s findings, we review both the BIA’s decision and the IJ’s decision to the extent the former expressly adopts the latter. *Flores Molina v. Garland*, 37 F.4th 626, 632 (9th Cir. 2022).

We deny the petition in part and grant it in part.

1. Rodas-Urias has not established that he is a member of a particular social group for purposes of asylum and withholding of removal. The BIA permissibly rejected Rodas-Urias’s proposed social group—“recent returnees to El Salvador,” or “recent deportees who have lived in the United States”—as “overbroad and diffuse.” *See Reyes v. Lynch*, 842 F.3d 1125, 1140 (9th Cir. 2016).

2. As to Cruz-Perez’s asylum claim, substantial evidence supports the BIA’s holding that her mother’s abuse did not rise to the level of persecution.¹ Cruz-Perez

¹ Cruz-Perez argues that the BIA erred by not finding a nexus between her mother’s abuse and her membership in the proposed social group “family members

testified that her mother “didn’t treat [her] very well,” “would hit [her],” and “wouldn’t give [Cruz-Perez and her siblings] something to eat.” Cruz-Perez began working in the fields at age eight “so [she] could eat,” and left home at age twelve. Cruz-Perez’s testimony reflects a childhood of abuse and neglect. But the record lacks sufficient detail to compel a finding of past persecution. Cruz-Perez did not testify as to how severely or how frequently her mother beat her. She did not state why her mother did not feed her, whether due to poverty, mental illness, spite, or some other cause. So, even seen from a child’s perspective, *see Hernandez-Ortiz v. Gonzales*, 496 F.3d 1042, 1045–46 (9th Cir. 2007), Cruz-Perez’s testimony does not establish an “ongoing pattern of serious maltreatment” that compels a finding of persecution, *see Sharma v. Garland*, 9 F.4th 1052, 1061 (9th Cir. 2021).

3. Substantial evidence supports the BIA’s holding that, although Cruz-Perez experienced past persecution by her former partner, Roberto Zavala, based on her membership in his family, the presumption of future persecution is rebutted by a fundamental change in circumstances. *See* 8 C.F.R. § 208.13(b)(1), (b)(i)(A); *Flores Molina*, 37 F.4th at 637. Cruz-Perez is no longer a member of Zavala’s family, has had no contact with Zavala since 2005, and remained in the same town in Mexico as Zavala for five months in 2013 without any incident. Cruz-Perez

of her mother.” The BIA permissibly did not reach this issue, because it held that Cruz-Perez did not experience persecution by her mother.

speculates that Zavala might be responsible for the robbery and assault she experienced in Mexico in 2013, but she presents no evidence that he was connected to those events; she merely states that Zavala presumably knew that she had returned to Mexico.²

4. Substantial evidence does not support the BIA's holding that there was no nexus between the persecution that Zavala-Cruz experienced at the hands of his grandmother and uncles and his membership in a particular social group. The BIA reversed the IJ's holding that the harm inflicted on Zavala-Cruz by his grandmother and uncles was not severe enough to rise to the level of persecution. The BIA then purported to affirm the IJ's holding that the harm Zavala-Cruz suffered "was not inflicted on account of any of his family relationships." But the IJ did not so hold.

The IJ stated that even if Zavala-Cruz had shown past persecution, "his past persecution claim would fail for lack of a sufficient nexus, as described below." Then, "below," the IJ stated that "[h]ad [Zavala-Cruz] established that the abuse inflicted on him by [his grandmother and uncles] amounted to persecution, he may

² Cruz-Perez also argues that the BIA erred by determining that she was not harmed by her former employer on account of her membership in the group of "Mexican women." But the BIA rejected that ground for asylum because Cruz-Perez did not assert a fear of future harm due to her gender-based group; she does not on appeal challenge that reasoning.

have been able to establish a nexus between that abuse and one or more of these family-based groups.” The IJ did hold that there was no nexus between the harm Zavala-Cruz experienced “at the hands of the gang members—including [his uncles] Victor and Marcos” and “his membership in any of the family groups he asserted.” But the IJ did not make findings about the motivation of Zavala-Cruz’s grandmother, or that of his uncles for abusing him at home, outside the context of the gang violence. So the IJ did not determine that there was no nexus between Zavala-Cruz’s persecution by those family members and his membership in his asserted family groups.

The BIA’s holding, and the government’s defense of that holding, thus rested on a factual finding that was never made. “[W]here the IJ has not made a necessary factual finding, the [agency’s] regulation requires the BIA to remand” *Brezilien v. Holder*, 569 F.3d 403, 413 (9th Cir. 2009). We therefore grant Zavala-Cruz’s petition for review in part and remand to the BIA with instructions (1) to remand to the IJ to determine whether there was a nexus between Zavala-Cruz’s persecution by his grandmother and uncles and his membership in his proposed family-based social groups and, depending on the IJ’s decision, (2) to determine any undecided additional issues pertinent to the asylum claim.

5. Cruz-Perez and Zavala-Cruz have not established eligibility for

withholding of removal because the only particular social group they assert for purposes of their withholding claims is “recent deportees who have lived in the United States.” They did not argue membership in that group before the IJ or BIA. Because Cruz-Perez and Zavala-Cruz’s withholding of removal claims are unexhausted and the government has so argued, we cannot consider them. *See Umana-Escobar v. Garland*, 69 F.4th 544, 550 (9th Cir. 2023) (explaining that the requirement of exhaustion is a mandatory claim-processing rule when the opposing party raises the issue of exhaustion).

6. Substantial evidence supports the BIA’s denial of Petitioners’ applications for CAT relief. To demonstrate eligibility for CAT protection, a petitioner must show “a *particularized* and *non-speculative* risk of torture.” *Park v. Garland*, 72 F.4th 965, 980 (9th Cir. 2023). A generalized risk of violence is not sufficient. *See Delgado-Ortiz v. Holder*, 600 F.3d 1148, 1152 (9th Cir. 2010) (per curiam). The general risk of violence that Petitioners fear they will face in El Salvador and Mexico, respectively, as recent returnees from the United States is insufficiently individualized to demonstrate eligibility for CAT protection.

PETITION FOR REVIEW DENIED IN PART AND GRANTED IN PART; REMANDED.