

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 25 2026

FOR THE NINTH CIRCUIT

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

NELSON ANTONIO PEREZ PEREZ;
MAGDA YURANY RODRIGUEZ
MUNOZ; E. N. P. R.,

Petitioners,

v.

TODD BLANCHE, Attorney General,

Respondent.

No. 25-6705

Agency Nos.
A240-858-121
A240-858-122
A240-858-123

MEMORANDUM*

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

Submitted August 14, 2026**
San Francisco, California

Before: LEE, MENDOZA, JR., and DE ALBA, Circuit Judges;
Partial Dissent by Judge LEE.

Nelson Antonio Perez Perez, his partner Magda Yurany Rodriguez Munoz,
and their minor daughter E.N.P.R. (collectively “Petitioners”), citizens of

* 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).

Columbia, seek review of a Board of Immigration Appeals’ (“BIA”) decision dismissing their appeal from an immigration judge’s (“IJ”) order denying their applications for asylum, withholding of removal, and protection under the Convention Against Torture (“CAT”).¹ We have jurisdiction under 8 U.S.C. § 1252, and grant in part and deny in part the petition.

When, as here, “the BIA conducts its own review of the evidence and law, rather than adopting the IJ’s decision, our review is limited to the BIA’s decision, except to the extent the IJ’s decision is expressly adopted.” *Rodriguez v. Holder*, 683 F.3d 1164, 1169 (9th Cir. 2012) (citation modified); *see also Velasquez-Gaspar v. Barr*, 976 F.3d 1062, 1064 (9th Cir. 2020). We review the BIA’s factual findings for substantial evidence and legal questions de novo. *Mendoza-Pablo v. Holder*, 667 F.3d 1308, 1312 (9th Cir. 2012).

1. Because the agency did not consider whether CDG members had mixed motives for their alleged persecution, the BIA impermissibly rejected Petitioners’ asylum and withholding of removal claims. *See Parussimova v. Mukasey*, 555 F.3d 734, 740 (9th Cir. 2009) (“[A]n asylum applicant need not prove that a protected ground was the only central reason for the persecution she

¹ Ms. Rodriguez Munoz and E.N.P.R. filed their own separate applications for asylum and related relief, which are predicated on the same facts set forth in Mr. Perez Perez’s application.

suffered. . . . [A] persecutory act may have multiple causes.”). Specifically, the BIA “discern[ed] no clear error in the [IJ’s] finding that the CDG members targeted [Mr. Perez Perez] for personal and economic reasons,” and targeted Ms. Rodriguez Munoz and E.N.P.R. to compel Mr. Perez Perez to continue working for CDG. However, the record evidence may also compel the conclusion that a protected ground was “at least one central reason” for Petitioners’ persecution (with respect to their asylum claim) or “a reason” (with respect to their withholding claim). *See Salguero Sosa v. Garland*, 55 F.4th 1213, 1221 (9th Cir. 2022) (discussing nexus standards that apply to asylum and withholding, respectively); *Madrigal v. Holder*, 716 F.3d 499, 506 (9th Cir. 2013) (concluding that “a protected motive” can co-exist alongside an unprotected one).

When the BIA has not considered an issue, “the proper course, except in rare circumstances, is to remand to the agency for additional investigation or explanation.” *INS v. Ventura*, 537 U.S. 12, 16 (2002) (citation modified). We, therefore, grant the petition as to Petitioners’ asylum and withholding of removal claims, and remand for the agency to consider in the first instance Petitioners’ mixed-motive arguments.

2. Based on the record here, “a reasonable factfinder would not be compelled to find [Mr. Perez Perez] eligible for CAT protection” because he failed to establish it is more likely than not that he will be tortured by, or with the consent

or acquiescence of, the government if returned to Columbia.² *Tamang v. Holder*, 598 F.3d 1083, 1095 (9th Cir. 2010). Mr. Perez Perez reported two incidents with CDG to the Colombian police, which they attempted to investigate. Although the perpetrator was released a few days later, these investigations even led to at least one arrest. Notably, a government’s failure “to bring the perpetrators to justice, is not in itself sufficient to establish acquiescence in the crime.” *Garcia-Milian v. Holder*, 755 F.3d 1026, 1034 (9th Cir. 2014); *Andrade-Garcia v. Lynch*, 828 F.3d 829, 836 (9th Cir. 2016) (“[A] general ineffectiveness on the government’s part to investigate and prevent crime will not suffice to show acquiescence.”).

The country condition evidence—which the IJ and the BIA properly considered—further demonstrates that the Colombian government is taking steps to control CDG’s criminal activity. *See Del Cid Marroquin v. Lynch*, 823 F.3d 933, 937 (9th Cir. 2016) (“[A] government does not acquiesce to torture where the government actively, albeit not entirely successfully, combats the illegal activities.” (citation modified)); *see also Garcia v. Holder*, 749 F.3d 785, 791–92

² Ms. Rodriguez Munoz and E.N.P.R. failed to meaningfully exhaust their CAT claim before the BIA and, therefore, this claim is not properly before the court. *See Umana-Escobar v. Garland*, 69 F.4th 544, 550 (9th Cir. 2023) (“Exhaustion requires a non-constitutional legal claim to the court on appeal to have first been raised in the administrative proceedings below, and to have been sufficient to put the BIA on notice of what was being challenged.” (citation modified)); *see also United States v. Graf*, 610 F.3d 1148, 1166 (9th Cir. 2010) (“Arguments made in passing and not supported by citations to the record or to case authority are generally deemed waived.”).

(9th Cir. 2014) (“Unless clear indications exist that the IJ or BIA did not consider the documentary evidence, general language that the agency considered all the evidence before it is sufficient.” (citation modified)).

**PETITION GRANTED IN PART, DENIED IN PART, AND
REMANDED.³**

³ Petitioners’ motion to stay removal, Dkt. Nos. 2, 11, is GRANTED.

Perez Perez, et al. v. Blanche, Case No. 25-6705

SEP 25 2026

LEE, Circuit Judge, dissenting in part:

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

I would deny the petition in full and would not remand because substantial evidence supports the agency’s determination that Clan del Golfo (CDG), a narco-trafficking organization, did not target the petitioner on account of his membership in a particular social group (PSG).

The petitioner contends that he is a member of a PSG of “transportation workers.” While CDG members first contacted him because of their interest in his services as a driver, the follow-up threats were in retaliation for his refusal to acquiesce to their demands and out of concern that the petitioner might expose their criminal activities. *See Regalado-Escobar v. Holder*, 717 F.3d 724, 730 (9th Cir. 2013). For example, one of CDG’s members “bashed in” Mr. Perez’s house and threatened him with violence if he said anything to anyone, including the police, about CDG members or where he had driven them.

A similar analysis applies to the nexus with imputed political opinion and family membership. CDG targeted petitioner because he refused to help them, rather than because he held anti-crime views. *Molina-Morales v. I.N.S.*, 237 F.3d 1048, 1051 (9th Cir. 2001). The petitioner’s family’s persecution was similarly due to his refusal to assist CDG, rather than “because of the family relationship per se.” *Rodriguez-Zuniga v. Garland*, 69 F.4th 1012, 1020 (9th Cir. 2023).

I respectfully dissent in part.