

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 13 2026

FOR THE NINTH CIRCUIT

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

STEPHANIE DAFMIN SILVA-CRUZ, et.
al.,

Petitioners,

v.

TODD BLANCHE, Attorney General,

Respondent.

No. 25-7120

Agency No.
A245-971-575,
A245-972-658,
A245-972-659

MEMORANDUM*

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

Argued and Submitted September 14, 2026
Portland, Oregon

Before: W. FLETCHER, FRIEDLAND, and DE ALBA, Circuit Judges
Dissent by Judge W. FLETCHER

Petitioners Stephanie Dafmin Silva-Cruz, Christian Adrian Leal-Garcia, and their minor daughter, K.N.L.-S., natives and citizens of Mexico, seek review of the Board of Immigration Appeals’ (“BIA”) decision affirming the Immigration Judge’s denial of asylum, withholding of removal, and relief under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252.

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

Reviewing the agency’s factual findings for substantial evidence and legal questions de novo, *Urquia-Yanez v. Blanche*, 176 F.4th 622, 626 (9th Cir. 2026), we grant the petition in part, deny the petition in part, and remand.

1. The BIA erred in its articulation of the nexus standard. An applicant for asylum or withholding must show that he or she faces persecution “on account of” a protected ground. *See I.N.S. v. Elias-Zacarias*, 502 U.S. 478, 481 (1992). Here, the BIA concluded that there was no nexus because Petitioners failed to “demonstrate that their perpetrators sought to overcome [Leal-Garcia’s] membership in the proposed social group” of male residents of Tepic. According to the BIA, “to establish nexus, the record must reflect ‘a desire by the persecutor to overcome a characteristic he deems offensive about’ the particular social group.”

The BIA legally erred by requiring “intent to overcome” to establish nexus. To be eligible for asylum or withholding, an applicant need only show that a protected ground is “one central reason” (for asylum), 8 U.S.C. § 1158(b)(1)(B)(i), or “a reason” (for withholding), *see Barajas-Romero v. Lynch*, 846 F.3d 351, 359 (9th Cir. 2017), for the persecution. And, although we have recognized that “intent to overcome” a protected trait can be one way to satisfy the nexus requirement, *see Pitcherskaia v. INS*, 118 F.3d 641, 644–45 (9th Cir. 1997), it is not the only way, *see Sinha v. Holder*, 564 F.3d 1015, 1021–23 (9th Cir. 2009) (concluding that the

persecution was “motivated by anti-Indian sentiment” and that such racial animus satisfied nexus, without any discussion of intent to overcome); *see also Rodriguez-Zuniga v. Garland*, 69 F.4th 1012, 1021 n.4 (9th Cir. 2023) (describing animus as just one form of nexus).

Because the BIA applied the wrong legal standard for nexus—insisting on “intent to overcome” even though nexus can be shown in other ways too—and affirmed denial of asylum and withholding solely on that ground, we remand for the agency to reconsider its decision under the correct legal standard. *See Khudaverdyan v. Holder*, 778 F.3d 1101, 1105 (9th Cir. 2015).

2. Substantial evidence supports the agency’s denial of CAT relief. For relief under the CAT, an applicant must prove that it is “more likely than not” that they would be tortured if removed. 8 C.F.R. § 208.16(c)(2). Even assuming that Leal-Garcia’s stabbing rose to the level of past torture, the record does not compel the conclusion that it is more likely than not that Petitioners will be tortured if returned to Mexico because Petitioners continued to reside in Tepic for over a year following Leal-Garcia’s stabbing and were not harmed or threatened during that time. We therefore deny the petition as to CAT relief.

**PETITION GRANTED IN PART, DENIED IN PART, and
REMANDED.¹**

¹ Petitioners’ Motion to Stay Removal, Dkt. No. 3, is GRANTED.

Silva-Cruz v. Blanche, No. 25-7120
W. FLETCHER, Circuit Judge, dissenting:

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I respectfully dissent.

Petitioners are a male and female, and their unnamed child. Petitioners did not propose a cognizable social group. Instead, the Immigration Judge proposed two groups. For the male petitioner, he proposed men in Tepic, petitioners' town. For the female petitioner and the child, he proposed relatives of the male petitioner. The BIA assumed, for purposes of its decision, that these two social groups are cognizable. The BIA concluded that the considerable harm the male petitioner suffered was not on account of his membership in the proposed group. It wrote: "[T]he respondents argue that the male respondent would not have been approached but for his membership in a particular social group as a male resident of Tepic However, the respondents do not point to any record evidence to demonstrate that their perpetrators sought to overcome his membership in the proposed social group."

First, a point of vocabulary. The BIA used the phrase "*overcome his membership* in the proposed social group." (Emphasis added.) The phrase "overcome his membership" is not standard English usage, and its meaning is not readily apparent. The BIA appeared to mean that petitioners have not demonstrated the male petitioner was attacked "*because of his membership* in the

proposed social group.” I will assume that this is what the BIA meant.

Second, a point of practicality. I sympathize with petitioners, but their case is hopeless. The male petitioner testified that Pelon, a drug dealer in Tepic, repeatedly pressured him to sell drugs. After petitioner repeatedly refused, Pelon and two others beat and stabbed petitioner. Afterwards, petitioners hid for several months and then fled to the United States. Petitioners presented no evidence of any connection between Pelon and any governmental entity, and they presented no evidence of any other protected ground.

On the record before us, it is clear that petitioners will not ultimately succeed in obtaining asylum, withholding, or CAT relief. Nonetheless, my colleagues remand to the BIA because “‘intent to overcome’ a protected trait” is “not the only way” to satisfy the nexus requirement. But even if petitioners were to satisfy that requirement, on this record they would be unable to establish a cognizable social group or other protected ground.