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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BERENICE HERNANDEZ MARTINEZ;
A. G. C. H.; A. M. C. H.,

Petitioners,

v.

TODD BLANCHE, Attorney General,

Respondent.

No. 25-6231

Agency Nos.
A245-720-227
A245-720-229
A245-720-230

MEMORANDUM*

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

Submitted October 19, 2026**
San Francisco, California

Before: S.R. THOMAS, KOH, and TUNG, Circuit Judges.

Petitioner Berenice Hernandez Martinez seeks review of the denial of her
application for asylum, withholding of removal, and protection under the

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

** The panel has granted the parties' joint motion to submit the case
(Dkt. No. 29), and unanimously concludes this case is suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

Convention Against Torture (“CAT”). Hernandez Martinez is the lead petitioner; her daughters are derivative beneficiaries who do not seek relief separate from their mother’s asylum application. Because the parties are familiar with the facts and history of this case, we need not recount them here. We deny the petition for review.

We have jurisdiction under 8 U.S.C. § 1252. “Our review is limited to the BIA’s decision except where the IJ’s opinion is expressly adopted.” *Plancarte Saucedo v. Garland*, 23 F.4th 824, 831 (9th Cir. 2022) (citation omitted). We review the BIA’s legal conclusions de novo and factual determinations for substantial evidence. *Singh v. Whitaker*, 914 F.3d 654, 658 (9th Cir. 2019). A finding is not supported by substantial evidence when “any reasonable adjudicator would be compelled to conclude to the contrary’ based on the evidence in the record.” *Bringas-Rodriguez v. Sessions*, 850 F.3d 1051, 1059 (9th Cir. 2017) (en banc) (quoting *Zhi v. Holder*, 751 F.3d 1088, 1091 (9th Cir. 2014)).

I

Substantial evidence supports the agency’s denial of the application for asylum and withholding of removal. The agency determined that Hernandez Martinez had not shown that the Mexican government would be unwilling or unable to protect her from private persecution, based on country conditions

evidence and Hernandez Martinez's testimony about her failure to report various incidents to the police. *See id.* at 1062. Hernandez Martinez suggested at various points during the hearing before the IJ that the police could have protected or assisted her. Although the country conditions evidence confirms that crime and corruption are common in Mexico, substantial evidence supports the agency's conclusion on this record that the Mexican government is taking steps to combat crime.

Hernandez Martinez argues that the agency erred by treating her failure to report these incidents as fatal and ignoring substantial evidence that reporting would have been futile. Reporting is not a requirement to establish that the government is unwilling or unable to control private persecutors, but it is a factor that the agency may consider. *See id.* at 1069. An applicant need not have reported abuse if she can "convincingly establish" that reporting would have been "futile or have subjected [her] to further abuse." *Ornelas-Chavez v. Gonzales*, 458 F.3d 1052, 1058 (9th Cir. 2006). In the hearing before the IJ, Hernandez Martinez suggested both that the authorities could have assisted her, and that reporting the incidents would have been futile. Assuming, without deciding, that this issue was administratively exhausted, absent additional evidence, her subjective belief that reporting would have been futile is insufficient to establish that the government

was unable or unwilling to protect her. *See Castro-Perez v. Gonzales*, 409 F.3d 1069, 1072 (9th Cir. 2005). The agency appropriately considered her failure to report, among other factors, and concluded that Hernandez Martinez had not carried her burden.

Hernandez Martinez also argues that the BIA neglected to analyze whether the government would be *unwilling* to protect her, as required under the law. *See Madrigal v. Holder*, 716 F.3d 499, 507 (9th Cir. 2013). Though the BIA misstated the governing standard once in its decision, it stated the law correctly at several other points, and it considered evidence relevant to the unwillingness prong: that the Mexican government is “taking steps to combat crime and criminal activity.” The BIA therefore applied the law correctly. *See Magana-Magana v. Bondi*, 129 F.4th 557, 572 (9th Cir. 2025).

II

Substantial evidence also supports the agency’s denial of CAT protection. Hernandez Martinez has not established that she would be “subject to a particularized threat of torture, and that such torture would be inflicted by or at the instigation of or with the consent or acquiescence of a public official.” *Lalayan v. Garland*, 4 F.4th 822, 840 (9th Cir. 2021) (emphasis omitted). She does not identify specific country conditions evidence showing a particularized risk of

torture, and the “generalized evidence of violence and crime” in the record is not “particular” to Hernandez Martinez, and therefore does not meet the CAT standard. *Delgado-Ortiz v. Holder*, 600 F.3d 1148, 1152 (9th Cir. 2010) (per curiam). The relevant incidents in Mexico—several robberies, some under threat of violence or retaliation—do not rise to the level of past torture. *See* 8 C.F.R. § 1208.16(c)(3); *Ruiz-Colmenares v. Garland*, 25 F.4th 742, 751 (9th Cir. 2022). Nor does Hernandez Martinez identify evidence of acquiescence or willful blindness to torture that would compel a reasonable adjudicator to reach a decision contrary to the agency’s determination. In the hearing before the IJ, she only speculated about the futility of reporting incidents to the police, and she suggested at other points that the police sometimes assist victims.

The agency was not required to engage in a more extensive analysis of that testimony or the country conditions evidence. The agency must “consider all evidence,” but it need not “discuss every piece of evidence.” *Almaghzar v. Gonzales*, 457 F.3d 915, 922 (9th Cir. 2006) (citing 8 C.F.R. § 1208.16(c)(3)). Here, not only did the IJ analyze that testimony in the asylum context, but the IJ also stated that he “consider[ed] and weigh[ed] the evidence in the record.” Where there is no “indication that the [agency] did not consider all of the evidence before it,” this sort of catchall general statement may be sufficient. *Cole v. Holder*, 659

F.3d 762, 771-72 (9th Cir. 2011). In short, the agency did not ignore “highly probative or potentially dispositive evidence.” *Id.* at 772. As for the country conditions evidence, the IJ explicitly considered that evidence, ultimately concluding that Mexico is taking “credible steps” to address crime. Here, the agency was not required to undertake any additional analysis.

III

Substantial evidence supports the agency’s denial of relief. We do not address petitioners’ remaining arguments about the IJ’s analysis because the BIA did not reach those issues and “[o]ur review is limited to those grounds explicitly relied upon by the [BIA].” *Budiono v. Lynch*, 837 F.3d 1042, 1046 (9th Cir. 2016).¹

PETITION DENIED.²

¹ We reviewed the IJ’s reasoning in the CAT context because the parties agree that the BIA adopted the IJ’s reasoning.

² Hernandez Martinez’s motion to stay removal, Dkt. No. 2, is denied.