

FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

JOAO MBUENO-VITA; MENGUI
ANIANCE; A.K.V.; C.M.V.,

Petitioners,

v.

TODD BLANCHE, Attorney
General,

Respondent.

No. 24-5472

Agency Nos.
A241-711-547
A241-711-548
A241-711-549
A241-711-550

OPINION

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

Argued and Submitted November 21, 2025
Seattle, Washington

Filed August 28, 2026

Before: William A. Fletcher, Richard A. Paez, and Roopali
H. Desai, Circuit Judges.

Opinion by Judge Paez

SUMMARY*

Immigration

Granting Joao Mbueno-Vita's petition for review of a decision of the Board of Immigration Appeals that dismissed his appeal of an Immigration Judge's denial of asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"), the panel held that the agency's adverse credibility determination was not supported by substantial evidence and that the agency committed reversible legal error in denying CAT relief.

Mbueno-Vita recounted that he was a member of National Union for the Total Independence of Angola ("UNITA"), a national political party that opposes the current ruling party in Angola. He alleged that, on multiple occasions, the Angolan police and military harmed him because of his political activism.

The panel concluded that none of the four adverse credibility grounds relied upon by the agency was supported by substantial evidence. Rather, the agency improperly relied on trivial perceived inconsistencies regarding an instance when Mbueno-Vita was injured by police during a protest and when he was detained by the Angolan military and tortured for two days. The credibility determination was further undermined by the frequent translation difficulties and disjointed English interpretation evident in the hearing transcripts. The panel concluded that Mbueno-Vita's apparent unresponsiveness could not support an adverse

* This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

credibility determination where Mbueno-Vita plainly did not understand the questions to which he was meant to respond.

As to the denial of CAT relief, the panel also concluded that the agency committed legal errors regarding Mbueno-Vita's particularized risk of torture and ability to internally relocate.

The panel therefore granted Mbueno-Vita's petition and remanded for further proceedings, accepting Mbueno-Vita's testimony as credible, to determine his eligibility for asylum, withholding of removal, and CAT relief.

COUNSEL

Corrine Cole (argued), Law Offices of Corrine Cole PLLC, Seattle, Washington, for Petitioners.

Raya Jarawan (argued), Trial Attorney; Anthony C. Payne and Jeffery R. Leist, Senior Litigation Counsel; Office of Immigration Litigation, Civil Division; Yaakov M. Roth, Acting Assistant Attorney General; United States Department of Justice, Washington, D.C.; for Respondent.

OPINION

PAEZ, Circuit Judge:

Joao Mbueno-Vita, his wife Mengui Aniance, and their two minor children, natives and citizens of Angola, entered the United States without inspection in September 2022. Mbueno-Vita applied for asylum in March 2023, citing persecution on account of his political opinion and his membership in the National Union for the Total Independence of Angola (“UNITA”). The Immigration Judge (“IJ”) found Mbueno-Vita not credible and denied his applications for asylum, withholding of removal, and relief under the Convention Against Torture (“CAT”). The Board of Immigration Appeals (“BIA”) affirmed and dismissed the appeal.

We hold that the agency’s adverse credibility determination is not supported by substantial evidence because the agency improperly relied on trivial inconsistencies and disregarded significant translation difficulties during the merits hearing. We also hold that the agency committed reversible legal error in denying CAT. We therefore grant Mbueno-Vita’s petition for review, reverse the agency’s adverse credibility finding, and remand for further proceedings consistent with this opinion.¹

¹ In his opening brief, Mbueno-Vita argues that the IJ violated his due process rights by failing to “fully develop the record” on behalf of a pro se petitioner. *See Zamorano v. Garland*, 2 F.4th 1213 (9th Cir. 2021). Even assuming the IJ erred by failing to call Aniance as a witness to clarify a purported inconsistency, Mbueno-Vita was not prejudiced by the error. The inconsistency between Mbueno-Vita’s testimony regarding the 2019 protest and Aniance’s description in her Form I-589 was only one of numerous factors the IJ weighed in finding Mbueno-

I. Background

In his proceeding before the agency, Mbueno-Vita recounted the following. He was a member of UNITA, a national political party that opposes the current ruling party in Angola, the People’s Movement for the Liberation of Angola (“MPLA”). On multiple occasions, the Angolan police and military harmed him because of his political activism.

On June 14, 2019, Mbueno-Vita attended a rally that called for the recognition and legalization of the Angolan Renaissance Party (“PRA-JA”) as a national political party. After the rally ended, Mbueno-Vita boarded a bus with other rally attendees to return to their respective homes. En route home, the bus was stopped by Angolan police. The police began firing their weapons at the rally attendees, killing at least two people. As Mbueno-Vita attempted to exit the bus, a police officer hit him in the back of his right leg with a rifle. Mbueno-Vita sought medical attention for his injury. Following this incident, Mbueno-Vita continued to engage in political activity and attended two additional rallies in support of PRA-JA and the broader coalition of opposition parties.

On May 8, 2021, Mbueno-Vita participated in his fourth rally opposing the Angolan government, where he was tear-

Vita not credible. Mbueno-Vita thus fails to establish that the “outcome of the proceeding may have been affected by the alleged violation.” *Zia v. Garland*, 112 F.4th 1194, 1203 (9th Cir. 2024) (citation modified). We decline to address Mbueno-Vita’s remaining due process arguments—they are either unexhausted because he failed to raise them before the BIA, *see Bare v. Barr*, 975 F.3d 952, 960 (9th Cir. 2020), or forfeited because he fails to raise them in his opening brief, *see Castro-Perez v. Gonzales*, 409 F.3d 1069, 1072 (9th Cir. 2005).

gassed and arrested by the Angolan military along with approximately twenty other people. Mbueno-Vita was then loaded onto a truck and transported to an unofficial police compound. At this “black site,” Mbueno-Vita was tortured for two days. Officers beat him and walked and stomped on him until he had difficulty breathing. One of the detainees died during this time and others were badly injured. Before the police released Mbueno-Vita, they warned him and the other detainees that if they told anyone about the death of the man in detention, they would also be killed.

Despite this threat, Mbueno-Vita publicly denounced the death of the man at the “black site” shortly after his release. In October 2021, Angolan military personnel came to Mbueno-Vita’s home but left when they saw his neighbors outside. Later that night, the military personnel went to another man’s home in the neighborhood who they believed had also revealed details of the imprisonment and death. The military personnel killed that man and raped his wife.

When Mbueno-Vita learned of the other man’s murder, he went into hiding. He lived in a church, which he would leave only occasionally to see his family. After over five months in hiding, Mbueno-Vita and his family fled to Kanfufu in the Luanda Norte province of Angola. He remained in hiding in Kanfufu with his family for another four months until they were able to leave Angola in June 2022. They entered the United States in September 2022.

With the assistance of pro bono counsel, Mbueno-Vita and his family timely filed their application for asylum, withholding of removal, and CAT relief. Mbueno-Vita appeared pro se at both of his merits hearings. Mbueno-Vita was the only person to testify during the proceeding,

although his wife Aniance was present in the courtroom for both hearings.

The IJ denied Mbueno-Vita's application for asylum, withholding of removal, and CAT protection. The IJ made an initial adverse credibility determination based on four distinct grounds, and found that Mbueno-Vita's corroborating evidence did not rehabilitate his incredible testimony. The IJ denied CAT protection because Mbueno-Vita's claim was "primarily based upon testimony" that he found not credible and because the record did not contain sufficient evidence to establish a particularized risk of torture independent of his incredible testimony. The IJ also determined that Mbueno-Vita could internally relocate to avoid any future harm.

Citing the same rationales as the IJ, the BIA dismissed Mbueno-Vita's appeal. The BIA affirmed that Mbueno-Vita did not provide credible testimony and concluded that the IJ's findings were "based on specific and cogent reasons supported by the record." The BIA also concluded that, notwithstanding the adverse credibility determination, the record lacked sufficient evidence that Mbueno-Vita faced a particularized risk of torture and indicated that internal relocation was possible. Mbueno-Vita timely appealed.²

II. Standard of Review

"Where, as here, the BIA adopts the IJ's decision and also contributes its own reasoning to the analysis, we review both decisions." *Zhi v. Holder*, 751 F.3d 1088, 1091 (9th Cir. 2014). We review factual determinations, including adverse credibility decisions, under the deferential substantial evidence standard. *Id.* We review de novo

² We have jurisdiction under 8 U.S.C. § 1252(a).

questions of law. *Id.* Our review is limited to those grounds “explicitly relied upon” by the agency. *Budiono v. Lynch*, 837 F.3d 1042, 1046 (9th Cir. 2016). If we conclude that the agency’s decision “cannot be sustained upon its reasoning,” we must remand. *Garcia v. Wilkinson*, 988 F.3d 1136, 1142 (9th Cir. 2021) (citation omitted).

III. Discussion

A. Adverse Credibility

In assessing credibility, the agency must look to the “totality of the circumstances and all relevant factors.” *Alam v. Garland*, 11 F.4th 1133, 1135 (9th Cir. 2021) (en banc) (discussing 8 U.S.C. § 1158(b)(1)(B)(iii)). The totality of the circumstances approach to adverse credibility determinations “imposes the requirement that an IJ not cherry pick solely facts favoring an adverse credibility determination while ignoring facts that undermine that result.” *Shrestha v. Holder*, 590 F.3d 1034, 1040 (9th Cir. 2010). An IJ may base credibility determinations on factors that do not “go[] to the heart of the applicant’s claim.” 8 U.S.C. § 1158(b)(1)(B)(iii). An IJ cannot, however, base an adverse credibility determination on an “utterly trivial inconsistency” that no reasonable person would understand as undermining an applicant’s veracity. *See Shrestha*, 590 F.3d at 1043–44.

In this case, the IJ provided four grounds for his adverse credibility determination: (1) Mbueno-Vita testified inconsistently about the location of the injury he sustained during the June 2019 protest; (2) Mbueno-Vita’s asylum application omitted that it was the Angolan police who hit him after the June 2019 protest; (3) Mbueno-Vita testified inconsistently about the harm he suffered during the May 2021 detention; and (4) Mbueno-Vita demonstrated “a

pattern of nonresponsive testimony.” The IJ also found that Mbueno-Vita did not adequately explain his inconsistencies and omissions. Because none of the bases upon which the IJ relied are supported by substantial evidence, we reverse the agency’s adverse credibility determination. We address each basis in turn.

1. Inconsistencies Regarding Injury During June 2019 Protest

The IJ first identified inconsistencies in Mbueno-Vita’s testimony and asylum application regarding where on his right leg the police hit him during the June 2019 protest. At the initial merits hearing, Mbueno-Vita testified that a police officer hit him on the right leg, including his right ankle, with the back of a weapon during the 2019 protest. On cross-examination, counsel for the government asked why Mbueno-Vita’s Form I-589 (the asylum application) stated that he sustained a “foot injury” at the protest. Mbueno-Vita replied that the police hit him with the back of a rifle, causing injury to his leg. Later, Mbueno-Vita also stated that the officer hit his knee, causing a “[strong] shock.”

Based on this testimony, the IJ concluded that “[Mbueno-Vita] gave multiple accounts of where he was hit, identifying his [right] leg, ankle, knee, and foot.” The IJ reasoned that these “accounts” “cannot all be true[,]” as “the knee and ankle/foot are distinct areas that are not easily mistaken.” The IJ additionally found that Mbueno-Vita was “nonresponsive” and did not adequately explain these discrepancies, which “cast[] serious doubt on his overall credibility.”

a. Approximation of Injury Location

As a threshold matter, it is not clear that these statements are inconsistent. Indeed, a reasonable person could easily conclude that allegations of an injured right ankle, knee, and foot are consistent with an injured right leg.

Even assuming these distinctions could reasonably be construed as inconsistencies, we hold that they are trivial and have no bearing on Mbueno-Vita's veracity, and thus cannot support an adverse credibility determination. *Id.* at 1044. An applicant's testimony describing where he was injured, particularly when recounting a traumatic event, is often approximate rather than anatomically exact. *See Morgan v. Mukasey*, 529 F.3d 1202, 1209 (9th Cir. 2008) (noting that trauma can prevent survivors from recalling peripheral details about the harms they suffered). Such approximations do not constitute material inconsistencies. And we have long cautioned that the agency should "avoid premising an adverse credibility finding on an applicant's failure to remember non-material, trivial details that were only incidentally related to [his] claim of persecution." *Kaur v. Gonzales*, 418 F.3d 1061, 1064 (9th Cir. 2005); *see, e.g., Osorio v. INS*, 99 F.3d 928, 931 (9th Cir. 1996) ("[T]rivial errors by an asylum applicant do not constitute a valid ground upon which to base a finding that an asylum applicant is not credible.") (quotations omitted); *Vilorio-Lopez v. INS*, 852 F.2d 1137, 1142 (9th Cir. 1988) (observing that "[m]inor inconsistencies" that "reveal nothing about an asylum applicant's fear for his safety are not an adequate basis for an adverse credibility finding").

Here, one can easily imagine that, while trying to escape a bus that has been ambushed by police who are shooting at passengers, and after being hit by an officer on the back of

one's leg with a large weapon, causing a "shock" and excruciating pain, a person might have difficulty pinpointing where an injury was inflicted along his right leg with complete precision, particularly where the pain was far-reaching. Given these traumatic circumstances, no reasonable person could conclude that Mbueno-Vita's minor purported discrepancies in recalling the precise location of his injury say anything about his propensity to tell the truth. And Mbueno-Vita's testimony about the 2019 protest was otherwise "overwhelmingly consistent with . . . his prior statements," bolstering his overall credibility. *Ren v. Holder*, 648 F.3d 1079, 1089 (9th Cir. 2011).

Because any inconsistency in describing the exact anatomical location of his injury was manifestly trivial and "says nothing about his truthfulness or the overall reliability of his account, nor was it an attempt to enhance his claims," we hold that it does not provide a basis for an adverse credibility determination. *Id.* at 1086.

b. Translation Deficiencies

The IJ's analysis regarding this particular discrepancy is further undermined by the frequent translation difficulties and disjointed English interpretation evident in the merits hearing transcripts. *See He v. Aschroft*, 328 F.3d 593, 598 (9th Cir. 2003) ("[F]aulty or unreliable translations can undermine the evidence on which an adverse credibility determination is based.").

For example, during government counsel's cross-examination of Mbueno-Vita regarding his alleged injury in 2019, Mbueno-Vita expressed persistent confusion as to what was asked of him, or otherwise answered the questions

in a way that suggests a flawed interpretation of the actual question posed:

DHS: How many times were you hit on the leg?

Mbueno-Vita: Well it was a metal. The back of the weapon was a metal. When it hit on my leg, that's why it quickly injured my leg.

DHS: How many times were you hit on the leg?

Mbueno-Vita: It was once, but it was a very strong hit.

DHS: What was this weapon?

Mbueno-Vita: I didn't understand the question. Is that the name or what kind of weapon it is?

DHS: Well you said the back of the weapon had metal on it. What was the weapon?

Mbueno-Vita: I didn't understand the question. Is what was the weapon? I'm not understanding what you mean by what was the weapon?

DHS: What were you hit on the leg with?

Mbueno-Vita: It was the kind of weapon when you're trying to fire it, you have to open it, and it has an extension. And then it is a weapon that the soldiers carry, but you have to have a kind of jacket or something to hold it, and you trying to fire it. But he opened a weapon, and as he opened the weapon the extension of the weapon, the back of it, that's what he used to hit on the knee.

DHS: Are you talking about a bow and arrow?

Mbueno-Vita: I don't understand. I don't know what the name of bow and arrow means.

Such explicit translation difficulties support the likelihood that Mbueno-Vita's discrepancies regarding the exact location of his injury were semantic rather than substantive—and thus all the more trivial to assessing his overall credibility under the totality of the circumstances. And on this record, the perceived inconsistencies in testimony that possibly resulted from mistranslation or miscommunication do not provide a sufficient basis for an adverse credibility finding. *See Akinmade v. INS*, 196 F.3d 951, 956–57 (9th Cir. 1999).

2. Omission of Details Regarding Injury During 2019 Protest

The IJ also concluded that Mbueno-Vita omitted from his Form I-589 the fact that it was the Angolan police who hit him with a weapon after the June 2019 protest, and that this purported omission was “material” and “call[ed] [Mbueno-Vita's] credibility further into doubt.” This ground is not supported by substantial evidence.

As a preliminary matter, “omissions are less probative of credibility than inconsistencies created by direct contradictions in evidence and testimony.” *Iman v. Barr*, 972 F.3d 1058, 1067 (9th Cir. 2020) (citation omitted). “It is well established that the mere omission of details is insufficient to uphold an adverse credibility finding.” *Lai v. Holder*, 773 F.3d 966, 970 (9th Cir. 2014) (citation modified). Here, Mbueno-Vita did not, in fact, omit any material detail regarding the injury he sustained in 2019 from his Form I-589. To the extent that Mbueno-Vita's

attribution of his injury to the Angolan police was at all unclear in his written application, he clarified this detail with consistent testimony at his merits hearing. *See Iman*, 972 F.3d at 1068 (emphasizing that “the omitted information was not *inconsistent* with the statements in [Petitioner’s] asylum application, his direct testimony, or any other evidence in the record” and “[t]he additional information supplemented rather than contradicted [Petitioner’s] account”).

The exact statement at issue in Mbueno-Vita’s Form I-589 is: “the police killed two people from our group and I managed to escape with a foot injury.” This statement contains a direct reference to police action regarding the killing of two other protesters, followed by “and,” which would commonly be understood to connect the police action with Mbueno-Vita’s foot injury. Another way to phrase this sentence could have been “the police murdered two of my fellow protesters and injured my foot.” Although one statement is clearer to an English speaker, they communicate the same action by police. This reading of the I-589 is particularly compelling because it is entirely consistent with Mbueno-Vita’s live testimony during his merits hearings that he was ambushed and injured by the Angolan police while returning home from the 2019 protest. *See Lai*, 773 F.3d at 974 (rejecting the BIA’s reliance on omissions because “the information did not conflict with the rest of [the petitioner’s] application or cast doubt upon the accuracy of it”). We thus hold that there was no material omission of the police’s role in causing Mbueno-Vita’s injury in the first place. And to the extent that further clarification regarding the police’s responsibility for Mbueno-Vita’s 2019 injury was absent from his I-589, it does not constitute a specific or cogent basis for an adverse credibility finding.

3. Inconsistencies Regarding Harm Suffered During 2021 Detention

The IJ also took issue with inconsistencies in Mbueno-Vita's testimony about the harm he suffered during his May 2021 detention. Namely, Mbueno-Vita initially testified that, upon arriving at a police compound, military officials told him and other detainees to lie on their backs, face up, and then walked on their bodies. Mbueno-Vita subsequently testified that the officials walked on his back, starting from his head and going down the back of his legs. The IJ concluded that "this testimony was inconsistent, as [Mbueno-Vita] could not have been simultaneously on his back and on his stomach." The IJ also found that Mbueno-Vita did not acknowledge that this testimony conflicted or sufficiently explain why it conflicted. Consequently, the IJ concluded that the inconsistency "further undermine[d] [Mbueno-Vita's] credibility."

Here again, this inconsistency does not support an adverse credibility determination both because the detail is nonmaterial and because the IJ failed to consider Mbueno-Vita's plausible explanation for the inconsistency: that he did not understand the IJ's questioning. *See Shrestha*, 590 F.3d at 1040, 1044.

Notably, when the IJ asked how the officers walked on Mbueno-Vita's back if he was lying face up, Mbueno-Vita replied, "I slept on my stomach, and the back was facing up." Rather than purposeful evasiveness, Mbueno-Vita's response indicates a lack of comprehension of the IJ's question altogether. Indeed, throughout the transcript, the difficulties that the IJ and Mbueno-Vita experience in understanding one another suggest flawed interpretation rather than an intentional effort by Mbueno-Vita to be

unresponsive. We have long recognized that trauma survivors may have difficulty recounting traumatic events with detail and clarity. *See Singh v. Gonzales*, 403 F.3d 1081, 1091–92 (9th Cir. 2005). And here, potentially faulty translations further “undermine the evidence on which [the] adverse credibility determination is based.” *He*, 328 F.3d at 598.

Instead of immediately and repeatedly presuming that Mbueno-Vita was deliberately nonresponsive in his testimony, the IJ was required to consider the entirely plausible explanation that Mbueno-Vita did not comprehend the questions posed in the first place, and thus could not effectively explain the discrepancies identified. Because the IJ failed to consider Mbueno-Vita’s explanation, the alleged inconsistencies regarding the harm Mbueno-Vita suffered in detention do not support an adverse credibility finding. *See Soto-Olarte v. Holder*, 555 F.3d 1089, 1091 (9th Cir. 2009); *Lai*, 773 F.3d at 970.

4. Pattern of “Nonresponsive” Testimony

Finally, the IJ determined that Mbueno-Vita demonstrated a “pattern of unresponsiveness which strongly supports a finding that [his] testimony [was] not credible.” The IJ proceeded to identify at least five separate examples of Mbueno-Vita’s purported unresponsiveness.

Rather than an “unwillingness” to provide responsive answers, what is crystal clear from the transcript is that Mbueno-Vita had difficulty both in understanding the IJ and making himself understood. Indeed, some portions of the transcript, including the purported examples of unresponsiveness the IJ identified in his decision, “read like ‘Who’s on First.’” *He*, 328 F.3d at 597. These instances occurred during questioning by both the IJ and the

government's counsel. And on multiple occasions, the translation difficulty appears to be compounded by the IJ's impatience and hostility.

Consider the first example the IJ cites for unresponsiveness. The exchange excerpted reads as follows:

IJ: Does your wife have any family remaining in Angola?

Mbueno-Vita: My wife as well.

IJ: Who?

Mbueno-Vita: She has her family. They were born in her own family.

IJ: Mother, father, siblings?

Mbueno-Vita: Yes, she's an Angolan citizen from the father's side and the mother's side and all her immediate siblings.

IJ: I just want to know who in her immediate family still live in Angola.

Mbueno-Vita: Her dad passed away. Her mom is alive. All her siblings are still alive.

The IJ found that this example demonstrated “reticence” on the part of Mbueno-Vita to answer simple factual questions. However, the disjointed and nonsensical nature of Mbueno-Vita's answers in this example and the other examples cited by the IJ instead illustrate that Mbueno-Vita did not understand the questions posed in the first place. *See, e.g., Zahedi v. INS*, 222 F.3d 1157, 1167 (9th Cir. 2000) (“[T]he confusion seems to have stemmed, at least in part, from language problems.”); *Abovian v. INS*, 219 F.3d 972, 979 (9th Cir. 2000), *as amended by* 228 F.3d 1127 and 234 F.3d 492 (9th Cir. 2000) (noting that translation difficulties may have contributed to the purported disjointedness and

incoherence in testimony). Here, Mbueno-Vita's apparent unresponsiveness cannot support an adverse credibility determination where he plainly did not understand the questions to which he was meant to respond.

* * *

When reviewing adverse credibility determinations, this court has “declined to draw a bright line or engage in a number-counting analysis, instead noting that no specific number of inconsistencies requires sustaining or rejecting an adverse credibility determination.” *Kumar v. Garland*, 18 F.4th 1148, 1155 (9th Cir. 2021); *Alam*, 11 F.4th at 1137. Instead, the court may affirm credibility findings “only when they are supported by the totality of [the] circumstances.” *Kumar*, 18 F.4th at 1151 (internal citations omitted). Here, none of the reasons cited by the IJ are valid grounds upon which to base a finding that a petitioner is not credible. *See Singh*, 403 F.3d at 1092–93. Where none of the bases for the IJ's credibility determination are sound, the adverse credibility determination is clearly not supported by substantial evidence. We therefore reverse the agency's determination and find Mbueno-Vita credible. *See, e.g., id.; He*, 328 F.3d at 603–04.

B. CAT Claim

That the CAT denial rests in large part on an unsound adverse credibility determination is cause alone to remand the CAT claim for further consideration. However, in this case, the agency also committed legal errors in analyzing Mbueno-Vita's particularized risk of torture and ability to internally relocate. These errors independently require remand.

1. Particularized Risk of Torture

The BIA affirmed the IJ's finding that Mbueno-Vita lacked "sufficient record evidence that [he] faces a particularized risk of torture should he return to Angola." Even setting aside Mbueno-Vita's testimonial evidence of past torture he experienced at the hands of the Angolan government, which the IJ and BIA improperly found incredible, this finding mischaracterizes the record.

Unlike the petitioners in *Delgado-Ortiz v. Holder*, who submitted only "generalized evidence of violence and crime" in their home country, 600 F.3d 1148, 1152 (9th Cir. 2010), Mbueno-Vita does not rely on generalized country conditions evidence and a random risk of violence to support his CAT claim. Instead, Mbueno-Vita argues that he *personally* is likely to be tortured by the Angolan government because of his involvement in organizing and activism on behalf of UNITA.

When country conditions evidence shows that a discrete class of persons is likely to face specific dangers, and the petitioner belongs to that class of persons, the country conditions evidence supports a particularized risk of torture. Here, Mbueno-Vita's evidence—namely, the United States Department of State's Angola 2022 Human Rights Report—confirms that the Angolan government has targeted and arbitrarily arrested, detained, tortured, and killed members of the opposing political parties. Because Mbueno-Vita is a member of UNITA, a political party oppositional to the Angolan government, the country report constitutes evidence of a particularized risk of torture. Where the agency does not properly construe evidence as probative of a particularized risk of torture and give reasoned consideration to that evidence, we must remand. *See Cole v.*

Holder, 659 F.3d 762, 772 (9th Cir. 2011); *see also Kamalthas v. INS*, 251 F.3d 1279, 1284 (9th Cir. 2001).

2. Internal Relocation

The BIA also affirmed the IJ’s finding that “the possibility of internal relocation weighs against a grant of relief” on the ground that “[Mbueno-Vita] and his family previously relocated within Angola and were not subject to harm or contacted by authorities while living in a different province.” Substantial evidence does not support this conclusion.

The CAT regulation “does not bar relief if an applicant could relocate, but it nevertheless provides that assessing the likelihood of future torture requires considering ‘[e]vidence that the applicant could relocate to a part of the country of removal where he or she is not likely to be tortured.’” *Akosung v. Barr*, 970 F.3d 1095, 1101 (9th Cir. 2020) (quoting 8 C.F.R. § 1208.16(c)(3)(ii)). The agency must consider all relevant evidence and no one factor is determinative. *Maldonado v. Lynch*, 786 F.3d 1155, 1164 (9th Cir. 2015).

In noting that Mbueno-Vita and his family “safely lived in Lunda Norte for a significant period before coming to the United States,” both the IJ and BIA neglected to consider that Mbueno-Vita and his family were living in *hiding* for the duration of the four months they spent in Lunda Norte before escaping Angola. Under our precedent, a person cannot safely relocate if they are forced to live in hiding or as a fugitive in their home country. *Akosung*, 970 F.3d at 1101–02. The fact that Mbueno-Vita and his family managed to live in hiding for four months without incident “does little to establish that [he] is able to ‘avoid future persecution’ or ‘is not likely to be tortured.’” *Id.* at 1102

(citation omitted). On the contrary, “a person who lives in hiding does so precisely because [he] continues to be in danger of being captured and returned to face persecution or torture.” *Id.* Therefore, counter to the IJ and BIA’s analysis, the time Mbueno-Vita and his family spent in Lunda Norte prior to leaving Angola weighs against the possibility of relocation.

The IJ further opined that a recent national election resulted in UNITA members gaining seats in three provinces and that this constituted evidence that Mbueno-Vita could safely relocate elsewhere in Angola. However, the agency committed legal error by failing to consider other “highly probative” evidence to its relocation determination. *Cole*, 659 F.3d at 772. Specifically, the agency failed to consider that the MPLA continues to control the other fifteen provinces, as well as the central government, which maintains power over all the provinces. And where the persecutor is the government, “[i]t has never been thought that there are safe places within a nation” for the petitioner to return. *Singh v. Moschorak*, 53 F.3d 1031, 1034 (9th Cir. 1995).

For the above reasons, we remand Mbueno-Vita’s CAT claim to the agency to address these legal errors.

IV. Conclusion

None of the four adverse credibility grounds relied upon by the IJ is supported by substantial evidence. And the IJ did not determine whether Mbueno-Vita’s testimony, if credible, established past persecution or a well-founded fear of future persecution. The agency also erred in its analysis of Mbueno-Vita’s particularized risk of torture and ability to internally relocate. We therefore grant Mbueno-Vita’s petition and remand for further proceedings, accepting his

testimony as credible, to determine his eligibility for asylum, withholding of removal, and CAT relief.

PETITION GRANTED and REMANDED.