UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
FORT SNELLING, MINNESOTA

File Number: [redacted]	)	
	)	
In the Matter of:	)	
	)	**In Removal Proceedings**
[redacted]	)	
	)	
	)	
Respondent.	)	
	)	

Charge: INA § 212(a)(7)(A)(i)(I) – an immigrant who at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.

Applications: Asylum under INA § 208, Withholding of Removal under INA § 241(b)(3); Relief under the Convention Against Torture.

ON BEHALF OF RESPONDENT:
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ON BEHALF OF THE DHS:
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DECISION OF THE IMMIGRATION JUDGE

I. Background

[redacted] Respondent (born on March 8, 1993), is and a native and citizen of Honduras. Ex. 1. Respondent entered the United States at or near the Hidalgo, Texas point of entry, on or about November 13, 2013. Respondent did not then possess or present a valid immigrant visa, reentry permit, bordering crossing identification card, or other valid entry document. Respondent was not then admitted or paroled after inspection by an immigration officer. Id. On December 23, 2013, the Department of Homeland Security (DHS) commenced removal proceedings against Respondent by filing the Notice to Appear

(NTA), charging Respondent pursuant to the above-captioned charge of removability. Id. On October 21, 2014, Respondent admitted the allegations and conceded the charge, and the Court sustained the charge. Id. Respondent filed the above-listed forms of relief. For the reasons below, the Court denies Respondent's applications for relief.

II. Evidence Presented

The following is a summary of evidence presented. All testimony and documentary evidence have been considered in their entirety regardless of whether specifically mentioned in this decision.

a. Testimony

i. Respondent

Respondent testified about her life in Honduras, her immigration history, and her fears of returning to Honduras.

b. Documentation

Ex. 1: DHS Form I-862, Notice to Appear, filed December 23, 2013.
Ex. 2: Form I-870, Record of Determination/Credible Fear Worksheet, marked June 12, 2014.
Ex. 3: Notice to EOIR: Alien Address, marked June 12, 2014.
Ex. 4: Form I-831, Notice to Alien New Court Location, filed December 23, 2013.
Ex. 5: Notice of Hearing, dated December 24, 2013.
Ex. 6: Form I-213, Record of Deportable/Inadmissible Alien, dated June 12, 2014.
Ex. 7: Order of the Immigration Judge, ordering Respondent removed *in absentia,* issued June 12, 2014.
Ex. 8: Order of the Immigration Judge, reopening Respondent's Removal Proceedings *sua sponte,* issued June 14, 2014.
Ex. 9: Notice of Privilege of Counsel and Consequences of Knowingly Filing a Frivolous Application for Asylum, issued October 21, 2014.
Ex. 10: Documents in Support of Asylum, Withholding of Removal, and CAT Applications, filed October 21, 2014.
Ex. 11: Form I-589, Application for Asylum, Withholding of Removal and CAT, filed October 21, 2014.
Ex. 12: 180-Day Asylum EAD Clock Notice, issued October 21, 2014.
Ex. 13: Instructions for Form I-589, marked October 21, 2014.
Ex. 14: Second Supplemental Documents in Support of Asylum and CAT Applications, filed March 18, 2020.
Ex. 15: Redlined I-589 Application for Asylum Filed October 21, 2014, filed March 18, 2020.

Ex. 16: Respondent's Witness List, filed March 18, 2020.
Ex. 17: Respondent's Pre-Hearing Brief, filed March 18, 2020.
Ex. 18: Respondent's Motion to Present Telephonic Testimony, filed March 18, 2020.
Ex. 19: Respondent's Motion to Extend Pre-Hearing Brief Page Limit, filed March 18, 2020.
Ex. 20: Order of the Immigration Judge granting Respondent's Motion to Extend Pre-hearing Brief Page Limit, issued March 24, 2020.
Ex. 21: Order of the Immigration Judge, denying Respondent's motion for telephonic testimony, issued March 24, 2020.
Ex. 22: Third Supplemental Documents in Support of Asylum and CAT Applications, filed August 4, 2021.
Ex. 23: Second Redlined I-589 Application, filed August 4, 2021.
Ex. 24: Respondent's Substitute Pre-Hearing Brief, filed August 4, 2021.
Ex. 25: Respondent's Motion to Extend Substitute Pre-Hearing Brief Page Limit, filed August 4, 2021.
Ex. 26: Respondent's Motion to Strike March 18, 2020 Pre-Hearing Brief Replaced by Respondent's Substitute Pre-Hearing Brief, filed August 4, 2021.
Ex. 27: Respondent's Renewed Motion to Present Telephonic Testimony, filed August 4, 2021.
Ex. 28: Order of the Immigration Judge granting Respondent's Motion to Strike March 18, 2020 Pre-Hearing Brief Replaced by Respondent's Substitute Pre-Hearing Brief, issued August 10, 2021.
Ex. 29: Declaration of [redacted] filed August 30, 2021.
Ex. 30: Respondent's Motion to Accept Declaration [redacted] filed August 30, 2021.

c. Expert Qualification

"An expert witness is broadly defined as someone who is 'qualified as an expert by knowledge, skill, experience, training, or education'" and who has "'scientific, technical, or other specialized knowledge [that] will assist the trier of fact to understand the evidence or to determine a fact in issue.'" Matter of D-R-, 25 I&N Dec. 445, 459 (BIA 2011) (quoting FED. R. EVID. 702). "In assessing whether to admit the testimony of a witness as an expert, an Immigration Judge should consider whether it is sufficiently relevant and reliable for the expert to offer an informed opinion." Matter of J-G-T-, 28 I&N Dec. 97, 101 (BIA 2020). Even if an IJ qualifies someone as an expert witness, the IJ may still decide the weight and persuasiveness of that testimony in light of all other evidence. See Dukuly v. Filip, 553 F.3d 1147, 1149–50 (8th Cir. 2009) (finding the IJ properly considered expert testimony and did not ignore it but, instead, found it unpersuasive when weighed against other evidence); Matter of J-G-T-, 28 I&N Dec. at 103 ("In order to give significant weight to the testimony of a person qualified as an expert, the Immigration

Judge should determine that the witness's testimony is probative and persuasive regarding the key issues in dispute in the case.").

i. Dr. Adnan Ahmed

Respondent presented Dr. Adnan Ahmed as an expert witness in mental health.[1] Ex. 27 at 4. During the September 3, 2021 hearing, the parties stipulated to Dr. Ahmed's qualification as a mental health expert. Dr. Ahmed holds an MBBS from Baqai Medical College, in Karachi, Pakistan and completed his residency at the Creedmore Psychiatric Center in Queens, New York. Ex. 27 at 16. Dr. Ahmed was also a Forensic Psychiatry fellow at the University of Minnesota. Id. Additionally, Dr. Ahmed holds various certificates and licenses, include a license from the Minnesota Board of Medical Practice, an ABPN (Diploma in Psychiatry), a second ABPN (a subspecialty certification in forensic psychiatry). Id. Dr. Ahmed's curriculum vitae also indicates that he was 'conferred' a doctor of medicine (MD) from the University of New York in 2021, and that he has a current DEA number. Id. Dr. Ahmed held various academic and professional appointments. Id. at 16-17. The Court finds Dr. Ahmed to be an expert witness in mental health.

ii. Dr. Meghah Kraush

Respondent presented Dr. Meghan Kraush as an expert witness on country conditions in Honduras, including gang violence and gendered violence.[2] Ex. 27 at 4. The DHS argues that Dr. Kraush is a "learned witness," and does not meet the qualifications of an expert witness on the country conditions in Honduras, or for gendered violence. In particular, the DHS argues that Dr. Kraush has not published peer reviewed articles which relate specifically to gang violence or gender in Honduras, and that she has no independent research which focuses on Honduras. In addition, the DHS argues the declaration provided by Dr. Kraush does not contain original information or research, and rather is a summation of open source country condition information.

Dr. Kraush holds a Ph.D. in Sociology from the University of Minnesota, and a B.A. in International Studies from the University of Chicago. Ex. 27 at 7. Dr. Kraush provided a list of her academic and popular publications. Two 'popular' publications appear to focus on Honduras. The first, "We Talk About One U.S.-Backed Coup. Honduras Talks About Three" was published online by "In These Times." Id. at 8. The second, "Fighting to Protect the Forests in Honduras," was published by The Progressive Magazine. Id.

Although Dr. Kraush has experience in Honduras, the bulk of her experience, research and publications do not relate to gang violence, gender or the country conditions in Honduras

[1] In lieu of providing oral testimony, the parties agree to accept Dr. Ahmed's written statements, see Ex. 22 at 1-3; Ex. 14 at 25-30

[2] In lieu of providing oral testimony, the parties agree to accept Dr. Kraush's written statements, see Ex. 14 at 81-103.

broadly. Rather, Dr. Kraush's experience, research, and publications focus primarily on other countries, or narrow issues in Honduras such as environmental justice and immigration. Consequently, the Court finds that Dr. Kraush is not an expert witness on country conditions in Honduras, including gang violence and gender. However, Dr. Kraush did provide a written statement, which may assist the Court in its determinations, and the Court will treat Dr. Kraush as a "learned witness." See Ex. 14 at 81-103. The Court gives Dr. Kraush's written statement the weight it deems appropriate in making a decision in this case.[3]

III. Credibility

a. Legal Standard

It is the applicant's burden to satisfy the IJ that his or her testimony is credible. See Fesehaye v. Holder, 607 F.3d 523, 526 (8th Cir. 2010). As Respondent's application was filed after May 11, 2005, the credibility provisions of the REAL ID Act govern. INA §§ 208(b)(1)(B), 241(b)(3)(C). Consistent with the REAL ID Act, the following factors may be considered in assessing an applicant's credibility: demeanor, candor, responsiveness, inherent plausibility of the claim, the consistency between oral and written statements, the internal consistency of such statements, the consistency of such statements with evidence of record, and any inaccuracy or falsehood in such statements, whether or not such inaccuracy or falsehood goes to the heart of the applicant's claim. INA § 208(b)(1)(B)(iii); see also Matter of J-Y-C-, 24 I&N Dec. 260, 262-63 (BIA 2007).

An applicant's own testimony is sufficient to meet the burden of proving his or her claim if it is believable, consistent, and sufficiently detailed to provide a plausible and coherent account of the basis of his or her fear. 8 C.F.R. § 1208.13(a). Testimony is not considered credible when it is inconsistent, contradictory with current country conditions, or inherently improbable. See Fofana v. Holder, 704 F.3d 554, 558 (8th Cir. 2013) (concluding that the lack of corroboration and consistency are cogent reasons to question an applicant's believability); Matter of S-M-J-, 21 I&N Dec. 722, 729 (BIA 1997). An IJ may determine that a respondent's testimony is not credible based on implausibility where such conclusions are rational and not based on improper bias. See Chen v. Mukasey, 510 F.3d 797, 802 (8th Cir. 2007) (noting that such conclusions are ultimately based on the IJ's "notions of common sense and life experience"). While omissions of facts in an asylum application or during testimony might not, in themselves, support an adverse credibility determination, the omission of key events coupled with numerous inconsistencies may provide a specific and cogent reason to support an adverse credibility finding. Manani v. Filip, 552 F.3d 894, 901 (8th Cir. 2009) (concluding that inconsistencies or omissions that relate to the basis of persecution are not minor and may support an adverse credibility

[3] The Court notes that even if it found Dr. Kraush to be an expert witness, Dr. Kraush's statements would not alter the Court's final determination in light of the other evidence in the record.

finding). The Court may properly base a credibility finding on the implausibility of a respondent's testimony, as long as there are specific and cogent reasons for disbelief. Ombongi v. Gonzales, 417 F.3d 823, 825-26 (8th Cir. 2005). Even minor inconsistencies can impact credibility under the REAL ID Act's "totality of the circumstances" approach. See Ali v. Holder, 776 F.3d 522 (8th Cir. 2015) (holding inconsistencies about facts which "may seem like minutiae" are appropriate factors to consider and rejecting the argument that the cited inconsistencies related only to insignificant matters).

"[W]here it is reasonable to expect corroborating evidence for certain alleged facts pertaining to the specifics of an applicant's claim, such evidence should be provided." See Matter of S-M-J-, 21 I&N Dec. at 725. Although the lack of corroborative evidence is not necessarily fatal to an asylum application, if an IJ or other trier of fact determines that the applicant should provide evidence that corroborates otherwise credible testimony, such evidence must be provided unless the applicant does not have the evidence and cannot reasonably obtain it. INA § 208(b)(1)(B)(ii). If such evidence is unavailable, the applicant must explain its unavailability, and the IJ must ensure that the applicant's explanation is included in the record. See Matter of S-M-J-, 21 I&N Dec. at 724-26. If the Court encounters inconsistencies in the testimony, contradictory evidence, or inherently improbable testimony, the absence of corroboration can lead to a finding that an applicant has failed to meet his or her burden of proof. See Rucu-Roberti v. INS, 177 F.3d 669, 670 (8th Cir. 1999) (indicating that when an applicant makes implausible allegations and fails to present corroborating evidence, an adverse credibility determination may be warranted); Zewdie v. Ashcroft, 381 F.3d 804 (8th Cir. 2004); Matter of J-Y-C-, 24 I&N Dec. at 266; Matter of S-M-J-, 21 I&N Dec. at 725-26.

Respondent's testimony was generally consistent with her prior written statements and application. Exs. 11, 14, 15, 23. Respondent gave an account that was generally internally consistent and inherently plausible. Respondent appeared responsive and candid. She readily answered questions and was not evasive. Therefore, the Court finds Respondent credible.

IV. Findings of Fact

Respondent was born on [redacted] in La Libertad Comayagua, Honduras. Respondent entered the United States on November 13, 2013. Respondent's mother, [redacted] and father, [redacted] live in La Libertad Comayagua, Honduras. Respondent has one brother and one sister, who live in La Libertad Comayagua, Honduras.

Respondent enrolled in La Universidad Politécnica de Honduras: Comayagua, in La Libertad, Honduras. In the spring of 2013 she was on her way to the university to file paperwork when she was kidnapped by a man, known as [redacted] Respondent reports that she was beaten and raped by [redacted] She did not know [redacted] prior to this encounter, and she does not know his real name. [redacted] was wearing a hoodie which covered his face.

[redacted] told Respondent that she must pretend to attend classes at the university, but that he would instead pick her up. [redacted] threatened Respondent, and said that if she didn't come with him, he would kill her. Respondent was taken by [redacted] raped, and beaten several times a week. Respondent estimates that this happened for approximately five or six months. Each incident would last from 11:00 am or noon until 6:00 pm or 7:00 pm. If Respondent didn't comply or obey [redacted] during the incidents, he would deny her access to the bathroom or water.

In September 2013, the Respondent attempted to flee [redacted] by going to her aunt's home in La Dalia, approximately one hour away from her home. She did not tell [redacted] where she was going. She kept her phone off most of the time while she was staying in La Dalia. However, when she turned her phone on, she would receive missed calls and messages from [redacted] Respondent testified that she was contacted by [redacted] after she fled to La Dalia. [redacted] indicated that he knew Respondent was at her aunt's house in La Dalia, and threatened Respondent. [redacted] did not physically go to Respondent's aunt's house. Respondent then returned to her parent's home in La Libertad. She reports that the next time she was kidnapped, [redacted] told her that she could not go away from him again. Respondent told [redacted] that she didn't want to be with him, and to let her go. [redacted] then put a hot iron on Respondent's leg, and put a gun against her, telling her that she could stay with him or die.

In September 2013, Respondent fled to the United States. She did not tell her family she was leaving, and pretended to go to the university. However, she went to the United States instead of going to university. She was unable to contact her family for a few days afterwards. Respondent has not been personally contacted by [redacted] since she fled to the United States. However, Respondent testified that [redacted] contacts her parents in Honduras. Respondent does not like to ask her parents about [redacted] however she asked her parents last month if [redacted] still called them to ask about her. Respondent testified that [redacted] called her parents as recently as the month before her testimony. Respondent's father, [redacted] indicated that [redacted] calls about two times per month, most recently in June 2021. Ex. 29 at 3. Mr. [redacted] does not always answer the phone when [redacted] calls, and [redacted] leaves messages. He last spoke to [redacted] in 2020, and indicated that [redacted] made threats and demanded to know where Respondent is. Id.

V. Relief

a. Asylum

i. Legal Standard

The applicant carries the initial burdens of proof and persuasion for establishing his eligibility for asylum. INA § 208(b)(1)(B); 8 C.F.R. § 1208.13(a). To establish eligibility for a grant of asylum, an applicant must meet the definition of a "refugee," defined as an

individual who is unwilling or unable to return to his country of nationality because of past persecution or because he has a well-founded fear of future persecution on account of his race, religion, nationality, membership in a particular social group, or political opinion. INA § 101(a)(42)(A); 8 C.F.R. § 1208.13(a).

If the applicant can establish that he suffered past persecution, then he is entitled to a rebuttable presumption that his fear of future persecution is "well-founded." 8 C.F.R. § 1208.13(b)(1). The government can rebut this presumption if a preponderance of the evidence shows either: (1) that there has been a "fundamental change in circumstances such that the applicant no longer has a well-founded fear of persecution" in his native country; or (2) that he "could avoid persecution by relocating to another part" of the country and that "it would be reasonable to expect the applicant to do so." 8 C.F.R. § 1208.13(b)(1)(i)-(ii). See also Bushira v. Gonzales, 442 F.3d 626, 631 (8th Cir. 2006); Matter of D-I-M-, 24 I&N Dec. 448, 450-51 (BIA 2008).

Asylum, unlike withholding of removal, may be denied in the exercise of discretion to an alien who establishes statutory eligibility for relief. See I.N.S. v. Cardoza-Fonseca, 480 U.S. 421, 441 (1987); Matter of Mogharrabi, 19 I&N Dec. 439, 447 (BIA 1987).

ii. *Past Persecution*

An applicant claiming past persecution must show the harm rose to the level of persecution. INA § 101(a)(42)(A); 8 C.F.R. § 1208.13(a). The Eighth Circuit has defined past persecution as "'the infliction or threat of death, torture, or injury to one's person or freedom on account of race, religion, nationality, membership in a particular social group, or political opinion.'" Litvinov v. Holder, 605 F.3d 548, 553 (8th Cir. 2010) (quoting Davila-Mejia v. Mukasey, 531 F.3d 624, 628 (8th Cir. 2008)). Persecution within the meaning of the INA "does not encompass all treatment that society regards as unfair, unjust, or even unlawful or unconstitutional." Matter of V-T-S-, 21 I&N Dec. 792, 798 (BIA 1997). Low-level intimidation and harassment alone do not rise to the level of persecution, Alavez-Hernandez v. Holder, 714 F.3d 1063, 1067 (8th Cir. 2013), nor does harm arising from general conditions such as anarchy, civil war, or mob violence. Agha v. Holder, 743 F.3d 609, 617 (8th Cir. 2014). Even minor beatings or limited detentions do not usually rise to the level of past persecution. Bhosale v. Mukasey, 549 F.3d 732, 735 (8th Cir. 2008); Kondakova v. Ashcroft, 383 F.3d 792, 797 (8th Cir. 2004). For example, the Eighth Circuit has held that "minor beatings and brief detentions, even detentions lasting two to three days, do not amount to political persecution, even if government officials are motivated by political animus." Eusebio v. Ashcroft, 361 F.3d 1088, 1090 (8th Cir. 2004). Rather, "'persecution is an extreme concept.'" Litvinov, 605 F.3d at 553. Non-physical harm or economic discrimination can be persecution if the effects are extreme. See Matter of T-Z-, 24 I&N Dec. 163, 171-173 (BIA 2007); Matter of Acosta, 19 I&N Dec. 211, 222 (BIA 1985), overruled in part on other grounds. Persecution is also treated

cumulatively. See Ngengwe v. Mukasey, 543 F.3d 1029, 1036 (8th Cir. 2008); Matter of O-Z- & I-Z-, 22 I&N Dec. 23, 25-26 (BIA 1998).

Respondent provided credible testimony detailing the harm she suffered. Respondent testified that she was taken against her will, beaten, and raped by [redacted] several times each week, over a period of five or six months. In addition, each incident lasted approximately seven hours. Respondent also testified that [redacted] frequently threatened her, and on one occasion branded her leg with a hot iron, put a gun to her head, and told her she could die or stay with him. As a result of the frequency and severity of the physical and sexual abuse suffered, the Court finds that Respondent suffered harm which rises to the level required for a finding of persecution, and will now turn to whether the harm was on account of a protected ground. Respondent claims she suffered past persecution based on her "actual and imputed feminist opinions" and based on the following particular social groups, "Honduran Women," "Honduran women considered property, and the subgroups of such women considered sexual property of men and those considered property associated with a gang," and "Honduran Women lacking sufficient protection from machismo culture." Ex. 24 at 20.

1. Political Opinion

As a preliminary matter, the Court will address whether Respondent expressed a valid political opinion. Respondent articulated her political opinion as "actual and imputed feminist opinions." Ex. 24 at 30. "Opposition to male domination and violence against women, and support for gender equity, constitutes a political opinion." See In Re R-A-, 22 I. & N. Dec. 906, 940 (BIA 2001); Fatin v. INS, 12 F.3d 1233, 1242 (3d Cir. 1993) (acknowledging that there is "little doubt that feminism qualifies as a political opinion within the meaning of the relevant statutes"). The Court finds that Respondent has expressed a valid political opinion.

However, the Court finds that Respondent did not establish she suffered past persecution because she failed to show the nexus between the alleged harm and her political opinion. Although the rape and beatings Respondent suffered constitute harm which would rise to the level required for persecution, there is insufficient evidence to find sufficient nexus tying the rapes and beatings to Respondent's political opinion. Respondent's testimony indicated that [redacted] burned her with an iron after she said didn't want to be raped or kidnapped anymore. Respondent also testified that [redacted] would harm her or restrict access to the bathroom or water when she refused to obey his orders. Respondent did not provide sufficient evidence or testimony to suggest that she was harmed or raped by [redacted] on account of her political opinion, nor did Respondent indicate that she expressed a political opinion [redacted] could have been aware of or imputed upon her prior to the occurrence of the rapes and beatings. Respondent has failed to establish that her actual or imputed political opinion was at least "one central reason" for the harm she suffered. Consequently,

Respondent has not established that she suffered past persecution on account of her real or imputed political opinion of "feminist opinions."

2. Particular Social Groups

Respondent has proposed the following particular social groups, "Honduran Women," "Honduran women considered property, and the subgroups of such women considered sexual property of men and those considered property associated with a gang," and "Honduran Women lacking sufficient protection from machismo culture." Ex. 24 at 20.

A. "Honduran Women"

Respondent claims past persecution based on membership in the particular social group of "Honduran Women." Ex. 24 at 18. "An applicant's burden includes demonstrating the existence of a cognizable particular social group, [her] membership in that particular social group, and a risk of persecution *on account of* [her] membership in the specified particular social group." Matter of W-G-R-, 26 I&N Dec. 208, 223 (BIA 2014).

A cognizable particular social group must (1) include members who share a common immutable characteristic; (2) be defined with particularity; and (3) be socially distinct within the society in question. Ngugi v. Lynch, 826 F.3d 1132, 1137-38 (8th Cir. 2016); Matter of W-G-R-, 26 I&N Dec. at 211-12. First, an immutable characteristic is one "that the members of the group either cannot change, or should not be required to change because it is fundamental to their individual identities or consciences." Matter of Acosta, 19 I&N Dec. at 233. Second, particularity requires the group is distinct enough that it "would be recognized, in the society in question, as a discrete class of persons." Matter of W-G-R-, 26 I&N Dec. at 214 (quoting Matter of S-E-G-, 24 I&N Dec. 579, 584 (BIA 2008)). This particularity inquiry may require looking into the culture and society of a respondent's home country to determine if the class is discrete and not amorphous. Id. at 214-15. Third, social distinction "exists where the relevant society perceives, considers, or recognizes the group as a distinct social group." Id. at 217-18; see also Matter of M-E-V-G-, 26 I&N Dec. 227, 242 (BIA 2014). Social distinction does not require "ocular" visibility. Matter of W-G-R-, 26 I&N Dec. at 216. Finally, a group cannot be circularly defined by the fact that it suffers persecution. Matter of C-A-, 23 I&N Dec. 951, 959 (BIA 2006). "Social group determinations are made on a case-by-case basis." Matter of M-E-V-G-, 26 I&N Dec. at 251 (citing Matter of Acosta, 19 I&N Dec. at 233-34).

Gender can be the foundation of a particular social group. See Ngengwe, 543 F.3d at 1034 (finding Cameroonian widows constitute a particular social group); Hassan v. Gonzales, 484 F.3d 513, 518 (8th Cir. 2007) (finding Somali females constitute a particular social group); but see Safaie v. INS, 35 F.3d 636, 640 (8th Cir. 1994) (finding Iranian women do not constitute a particular social group in the context of nexus).

First, sex is an immutable characteristic. Matter of Acosta, 19 I&N Dec. at 233 ("The shared characteristic might be an innate one such as sex"). Thus, "Honduran women" is a group whose members share an immutable characteristic.

Next, the Court finds "Honduran women" is particular. The group is discrete and clearly defined by the boundary of gender. The potentially large membership of the group does not defeat its particularity because the size of a proposed particular social group is not determinative. See Malonga v. Mukasey, 546 F.3d 546, 554 (8th Cir. 2008) (finding an ethnic group is a particular social group despite the size of the group); Matter of S-E-G, 24 I&N Dec. 579, 584 (BIA 2008) (finding size may be a factor, but the key question is whether the group is "sufficiently distinct").

Further, the Court finds the particular social group of "Honduran women" is socially distinct. Society clearly distinguishes by gender. Ex. 14 at 24. Country conditions establishes Honduran society distinguishes women. See Ex. 14 at 108, 116, 145, 148 Finally, the group is not defined by any harm. The group is defined by nationality and gender.

Based on the facts and evidence in the record, the Court concludes that Respondent's proposed particular social group of "Honduran women" is cognizable under the law. Moreover, the Court finds that Respondent is a member of that group. The Court now turns to whether Respondent suffered harm on account of her membership in the particular social group "Honduran women."

i. Nexus

An asylum applicant must demonstrate the persecution was "on account of" her particular social group. 8 C.F.R. § 1208.13(a); see INS v. Elias-Zacarias, 502 U.S. 478, 483 (1992) (explaining that an asylum claim fails unless the applicant establishes the requisite nexus between the alleged harm and a statutorily protected ground). For an applicant to show she has been targeted on account of a protected ground, the applicant must demonstrate her claimed ground was at least "one central reason" for the claimed harm. INA § 208(b)(1)(B)(i). The protected ground "cannot be incidental, tangential, superficial, or subordinate to another reason." Matter of J-B-N- & S-M-, 24 I&N Dec. at 212-14. An applicant may show a persecutor's motives through direct or circumstantial evidence. Elias-Zacarias, 502 U.S. at 483. Such evidence may include statements by persecutors, or treatment of other similarly situated people. See Matter of S-P-, 21 I&N Dec. 486, 494 (BIA 1996).

In Safaie, a case involving an Iranian woman who opposed the government's rules regarding traditional dress for women, the Eighth Circuit affirmed the denial of asylum, in part, "because no factfinder could reasonably conclude that all Iranian women had a well-founded fear of persecution based solely on their gender." 25 F.3d at 640. However, in

Hassan, a case involving a Somali woman subjected to female genital mutilation (FGM), the Eighth Circuit held "that a factfinder could reasonably conclude that all Somali females have a well-founded fear of persecution based solely on gender given the prevalence of FGM." 484 F.3d at 518. Thus, the prevalence of harm is an important consideration in the asylum context.

Respondent's testimony and affidavit do not provide direct evidence that her abuser, [redacted] targeted her specifically because of her gender. Respondent testified that she had not met [redacted] prior to her initial kidnapping. She further testified that she was not sure why she was specifically targeted by [redacted] for the first kidnapping. Respondent was on her way to file papers for university when [redacted] kidnapped her. Respondent testified that after she fled to her Aunt's house, and was later kidnapped again by [redacted] she told [redacted] that she didn't want this to continue, and that she wanted to be let go. [redacted] then put a gun to Respondent's head, put a hot iron to her leg, and told her that she could either stay with him or die. The Court finds that the statements made by [redacted] lack a clear indication of the reason for his animus, and whether Respondent's gender was one central reason for the harm.

The Court also considers treatment of similarly situated people and the prevalence of harm to women as circumstantial evidence for determining nexus. Country conditions indicate that much of the sexual violence directed at women in Honduras is rooted in Machismo culture. See Ex. 22 at 42, 117; Ex. 14 at 234 ("Obstacles included insufficient political will, inadequate budgets, limited or no service in rural areas, absence of or inadequate training and awareness of domestic violence among police and other authorities, and a pattern of male-dominated culture and norms."); Ex. 14 at 113 ("underlying causes of violence are deeply rooted in the patriarchal attitudes and machista culture that are pervasive in Salvadoran and Honduran societies."). The UN Special Rapporteur on Violence Against Women following the mission to Honduras stated that "In Honduras, violence against women is widespread and systematic and it impacts women and girls in numerous ways." Ex. 22 at 107. The Court is mindful that much of the evidence in the record is more recent than Respondent's past harm. However, the evidence establishes these attitudes and treatments toward women are systemic, and the court does consider this evidence.

Despite the circumstantial evidence regarding the treatment of and attitudes toward Salvadoran women, the lack of direct evidence regarding Respondent's persecutors' specific motives makes it difficult to conclude that Respondent's membership in the particular social group "Honduran women" was at least one central reason for the harm she suffered. Motivation is a question of fact and, in weighing all the evidence, the Court finds Respondent has not meet their burden to show that she was harmed on account of her membership in a particular social group ("Honduran Women").[4]

[4] The Court notes that even if it found that Respondent successfully established nexus, the Court would find that Respondent has failed to establish past persecution, as she has failed to show that the Government of Honduras was

B. "Honduran women considered property, and the subgroups of such women considered sexual property of men and those considered property associated with a gang"

The Court concludes the proposed particular social group "Honduran women considered property, and the subgroups of such women considered sexual property of men and those considered property associated with a gang" is not cognizable. Even though nationality and gender are immutable characteristics, Respondent has not met her burden to show this particular social group is particular and socially distinct in Honduran society. First, Respondent has not shown the group is particular. It is unclear what "considered property" means in Honduran society. Some evidence in the record suggests that "machismo culture" contributes to violence against women in Honduras. See Ex. 22 at 42, 117; Ex. 14 at 234 ("Obstacles included insufficient political will, inadequate budgets, limited or no service in rural areas, absence of or inadequate training and awareness of domestic violence among police and other authorities, and a pattern of male-dominated culture and norms."); Ex. 14 at 113 ("underlying causes of violence are deeply rooted in the patriarchal attitudes and machista culture that are pervasive in Salvadoran and Honduran societies."). However, the Court finds there is not enough evidence to demonstrate that Honduran society understands females "considered property" or the expressed subgroups to be a discrete class of persons. Respondent fails to show how these terms can combine to create clear boundaries for who is included in this group. For example, it is unclear whether the proposed group encompasses women who are viewed as property by virtue of their employment (e.g., in a labor trafficking situation). The Court finds the record does not show how the society identifies this alleged subset of women. Thus, the Court finds Respondent has not met her burden to show particularity for this proposed particular social group. Moreover, Respondent has not shown this particular social group is socially distinct. There must be proof the group is perceived by the society in general to share a particular characteristic. Here, Respondent has not presented sufficient evidence to show Honduran society makes meaningful distinctions based on the characteristics of being a Honduran woman considered property. The record does show widespread problems of violence against

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unable or unwilling to protect her in this particular case. To establish persecution by a government based on violent conduct of private actors, an applicant must show more than difficulty controlling private behavior. See Menjivar v. Gonzales, 416 F.3d 918, 921 (8th Cir. 2005) (citing Matter of McMullen, 17 I&N Dec. 542, 546 (BIA 1980)). The Court notes Respondent did not report any of the incidents of harm to the police. See Gathungu v. Holder, 725 F.3d 900, 906-09 (8th Cir. 2013); Matter of S-A-, 22 I&N Dec. 1328, 1335 (BIA 2000). However, a failure to report abuse to the police can be significant. See Shaghil v. Holder, 638 F.3d 828, 834 (8th Cir. 2011). Although that is not dispositive of the issue, it is relevant for the Court's determination. Moreover, for the reasons discussed *infra* section V(a)(iii)(2), Respondent has not established that the government was unable or unwilling to protect her. Even if the Court found that Respondent established past persecution on account of this particular social group, the Court would find that DHS successfully rebutted the presumption of a well-founded fear of persecution because Respondent could reasonably relocate within Honduras. See discussion on internal relocation, *infra* section V(a)(iii)(2).

women generally and does show that Honduran society has long viewed women as inferior to men, due to the underlying culture of "machismo." Exs. 14, 22. Still, this does not explain what Honduran society understands to be the group of women considered property. The record does not provide enough support to show that women who are considered property in general, or in the expressed subgroups, are perceived as a group. Accordingly, the Court concludes that "Honduran women considered property, and the subgroups of such women considered sexual property of men and those considered property associated with a gang" is not a cognizable particular social group.

C. "Honduran Women lacking sufficient protection from machismo culture."

The Court concludes this group is not cognizable. Even though nationality and gender are immutable characteristics, Respondent has not met her burden to show this particular social group is particular and socially distinct in Honduran society. First, Respondent has not shown the group is particular. It is unclear what "lacking sufficient protection" means in Honduran society (i.e. legally, socially, physically, etc.) It is also unclear whether Honduran society views women as lacking sufficient protection from machismo culture. Moreover, Respondent has not shown this proposed particular social group to be socially distinct. There must be proof the group is perceived by the society in general to share a particular characteristic. Although the record recognizes machismo culture is prevalent in Honduran society, Respondent has not presented sufficient evidence to show Honduran society makes meaningful distinctions based on the characteristics of being Honduran woman perceived lacking sufficient protection from machismo culture. See Ex. 22 at 42, 117; Ex. 14 at 234; Ex. 14 at 113 ("underlying causes of violence are deeply rooted in the patriarchal attitudes and machista culture that are pervasive in Salvadoran and Honduran societies."). However, the Court finds it too large of an extrapolation to conclude that the prevalence of machismo in Honduran society generally means that Honduran women lacking sufficient protection from machismo culture, or are otherwise effected by machismo, are perceived as a group. Accordingly, the Court concludes Respondent has failed to establish that "Honduran Women lacking sufficient protection from machismo culture" is a cognizable particular social group.

iii. Well-Founded Fear of Future Persecution

1. Political Opinion

Because Respondent has not shown past persecution related to her political opinion, she is not entitled to a presumption of a well-founded fear of persecution. 8 C.F.R. § 1208.13(b)(1). If the applicant's fear of persecution is unrelated to past persecution, the applicant bears the burden of establishing that the fear is well founded. See id. An applicant has a well-founded fear of future persecution if: (1) the applicant has a fear of persecution in his or her country of nationality or, if stateless, in the country of last habitual residence,

on account of race, religion, nationality, membership in a particular social group, or political opinion; (2) there is a reasonable possibility of suffering such persecution if the applicant were to return to that country; and (3) the applicant is unable or unwilling to return to, or avail himself or herself of the protection of, that country because of such fear. 8 C.F.R. § 1208.13(b)(2)(i). A well-founded fear of persecution does not exist where the applicant could avoid persecution by relocating to another part of the country and such relocation would be reasonable. 8 C.F.R. § 1208.13(b)(2)(ii). In other words, the applicant's fear of persecution must be countrywide. Mohamed v. Ashcroft, 396 F.3d 999, 1003 (8th Cir. 2005); Matter of Acosta, 19 I&N Dec. at 235.

To establish a well-founded fear of persecution, an applicant must present credible evidence that demonstrates that the feared harm is of a level that amounts to persecution, that the harm is on account of a protected characteristic, that the persecutor could become aware or already is aware of the characteristic, and that the persecutor has the means and inclination to persecute. Matter of Y-B-, 21 I&N Dec. 1136, 1149 (BIA 1998). A well-founded fear of persecution must be both subjectively genuine and objectively reasonable. Yu An Li v. Holder, 745 F.3d 336, 340 (8th Cir. 2014). To demonstrate a subjective fear of persecution, an applicant must demonstrate a genuine apprehension or awareness of the risk of persecution. Matter of Acosta, 19 I&N Dec. at 221. To satisfy the objective element, the applicant's subjective fear must be supported by "'credible, direct, and specific evidence that a reasonable person in the alien's position would fear persecution if returned to the alien's country.'" Damkan v. Holder, 592 F.3d 846, 850 (8th Cir. 2010) (quoting Mamana v. Gonzales, 436 F.3d 966, 968 (8th Cir. 2006)). A ten percent chance of future persecution can be sufficient to meet the asylum requirements. Cardoza-Fonseca, 480 U.S. at 431; Bellido v. Ashcroft, 367 F.3d 840, 845 n.7 (8th Cir. 2004).

In evaluating whether the applicant has sustained the burden of proving a well-founded fear of persecution, the applicant is not required to provide evidence that he or she would be singled out individually for persecution if the applicant establishes that there is a pattern or practice of persecution of persons similarly situated to the applicant on account of one of the enumerated grounds and that the applicant is a member of and identified with that group. 8 C.F.R. § 1208.13(b)(2)(iii); see also Matter of S-M-J-, 21 I&N Dec. 722, 731 (BIA 1997). However, to constitute a "pattern or practice," the persecution of the group must be "systemic, pervasive, or organized." Ngure v. Ashcroft, 367 F.3d 975, 991 (8th Cir. 2004).

Respondent has not established a reasonable possibility that she would be persecuted on account of her political opinion or imputed political opinion. First, the evidence submitted by Respondent did not indicate a pattern or practice of persecution, or any level of harm, against feminists because of their political opinion.[5] Secondly, although Respondent rejected [redacted] advances and fled to the United States, Respondent claims that her family has continued to receive phone calls from [redacted] asking where

[5] Some evidence suggests that there may be a pattern of women being targeted more broadly in Honduras, however this does not equate to individuals being targeted because they are feminists.

Respondent is and making threats, this does not establish a sufficient link to Respondent's actual or imputed political opinion. Even if the Court were to believe these threats were valid, Respondent has failed to show a nexus between the feared persecution and her political opinion. The continued contact between [redacted] and Respondent's family pertains to the likelihood of an event, and does not satisfy the nexus requirement in which Respondent must have a well-founded fear of persecution on account of her actual or imputed political opinion. Respondent testified she didn't know [redacted] prior to her initial kidnapping and rape. Respondent's affidavit stated that "his initial interest in me, before he became obsessed with me, was random and he had no reason to single me out." Ex. 14 at 18. The record doesn't contain sufficient statements or evidence to support that [redacted] or any other individual targeted, or would target, Respondent on account of her political opinions. The Court does not find sufficient indication that the harm Respondent suffered occurred on account of, or that any perceived threats made afterwards, were on account of her actual or imputed political opinion.

2. "Honduran Women"

Respondent has not established a reasonable possibility that she would be persecuted on account of her membership in the group "Honduran Women." As discussed above in section V(a)(i)(2)(A), the lack of direct evidence regarding Respondent's persecutors' specific motives made it difficult to conclude that Respondent's membership in the particular social group "Honduran women" was at least one central reason for the harm she suffered. Respondent's father, [redacted] stated that [redacted] calls the family at least two times a month, most recently in June 2021.[7] Mr. [redacted] resides in Honduras. He further indicated that he last spoke with [redacted] in 2020, at which time [redacted] made threats and demanded to know where Respondent is located. Respondent's family has not been harmed by [redacted] and Respondent has not been directly contacted by [redacted] since she fled Honduras. Although [redacted] attempts to contact Respondent's family indicate an increased likelihood of potential harm, the Court is mindful that for the same reasons expressed in section V(a)(i)(2)(A), that the Respondent has not shown that any threats or fears of future harm perpetrated by [redacted] are on account of her membership in the particular social group "Honduran women," or that her membership would be at least one central reason for the feared harm.

However, even if the Respondent had an objectively reasonable fear of persecution on account of membership in the particular social group of Honduran Woman based on the

[6] The Court notes that the harm Respondent suffered occurred over a long period of time. Although Respondent did not initially know [redacted] the Court acknowledges the possibility that his motivation could have changed over time. However, the Court is unable to find evidence sufficient to indicate that Respondent was harmed – at any time – on account of her membership in a viable particular social group, or on account of her political opinion.

[7] [redacted] affidavit was dated August 29, 2021. Ex. 29 at 3.

country conditions and her history with [redacted] she could reasonably internally relocate. A well-founded fear of persecution does not exist where the applicant could avoid persecution by relocating to another part of the country and such relocation would be reasonable. 8 C.F.R. § 1208.13(b)(2)(ii). In other words, the applicant's fear of persecution must be country-wide. Mohamed v. Ashcroft, 396 F.3d 999, 1003 (8th Cir. 2005); Matter of Acosta, 19 I&N Dec. at 235. [redacted] lack of direct communication with Respondent likely indicates that he does not know her location and she could safely relocate to a large city within Honduras. Notably, although [redacted] contacted Respondent over her cellphone when she fled to her Aunt's house, [redacted] did not come to her Aunt's house. Although it may not be desirable to live apart from family, Respondent's ability to relocate to another part of Honduras is not unreasonable. The Court finds that Respondent would likely not be harmed by [redacted] if she moved to another region in Honduras. The Respondent has been able to relocate to the United States and has had no direct contact from the Respondent. It would be equally reasonable to relocate to a large city away from the location in which the Respondent was harmed by the perpetrator and to continue avoiding contact with the perpetrator.

Additionally, the Court looks to whether Respondent has established a pattern of practice of persecution. The applicant is not required to provide evidence that he or she would be singled out individually for persecution if the applicant establishes that there is a pattern or practice of persecution of persons similarly situated to the applicant on account of one of the enumerated grounds and that the applicant is a member of and identified with that group. 8 C.F.R. § 1208.13(b)(2)(iii); see also Matter of S-M-J-, 21 I&N Dec. 722, 731 (BIA 1997). However, to constitute a "pattern or practice," the persecution of the group must be "systemic, pervasive, or organized." Ngure v. Ashcroft, 367 F.3d 975, 991 (8th Cir. 2004). The record indicates that gender based violence is widespread in Honduras, and is the second leading cause of death for women of reproductive age in Honduras. Ex. 22 at 41. Domestic violence is the leading cause of reported crimes against persons in Honduras at the national level. Ex. 22 at 108. The record further indicates that the "underlying causes of violence are deeply rooted in the patriarchal attitudes and machista culture that are persuasive in Salvadoran and Honduran societies." Ex. 14 at 113.

The Court recognizes that Honduras is plagued by human rights abuses, some which are particular to women. However, Respondent did not present sufficient evidence to show that the government of Honduras condones domestic violence or is completely helpless to stop it. Salman, 687 F.3d 991, 995 (8th Cir. 2012). To qualify for asylum, an applicant must show that the persecution was inflicted by the government of a country or by persons or an organization that the government is unwilling or unable to control. Galloso v. Barr, 954 F.3d 1189, 1193 (8th Cir. 2020); Miranda v. INS, 139 F.3d 624, 627 (8th Cir. 1998). Whether a government is "unable or unwilling to control" private actors is a factual question that must be resolved based on the record in each case. Menjivar v. Gonzales, 416 F.3d 918, 921 (8th Cir. 2005). To establish persecution by private actors, the applicant must show more than just that the government has difficulty controlling private behavior.

Salman v. Holder, 687 F.3d 991, 995 (8th Cir. 2012). Police ineffectiveness and corruption do not, alone, require a finding that the government is unable or unwilling to control persecutors. Khilan v. Holder, 557 F.3d 583, 586 (8th Cir. 2009). Indeed, "the fact that police take no action on a particular report does not necessarily mean that the government is unwilling or unable to control criminal activity, because there may be a reasonable basis for inaction." Salman, 687 F.3d at 995 (internal citations omitted).

The harm Respondent fears at the hands of [redacted] or as part of a pattern or practice of persecution against Honduran women, is conducted by private actors. To establish persecution by private actors, the applicant must show more than just that the government has difficulty controlling private behavior, rather she must demonstrate that the government condoned the private behavior or at least demonstrated a complete helplessness to protect the victims. Salman v. Holder, 687 F.3d 991, 995 (8th Cir. 2012). Since the harm Respondent fears is not inflicted by a government actor, the question before the Court is whether the Honduran government is unwilling or unable to control [redacted] or other individuals who would seek to harm her because she is a Honduran Woman.

Although not dispositive, in the instant case, Respondent did not report [redacted] abuse to the police, thus depriving them of the opportunity to respond to [redacted] actions. The record indicates that the Honduran government is not wholly effective in combating violence against women or domestic violence. See Ex. 14 at 133 ("The Honduran National Congress released a new penal code this year that reduces rape and sexual assault sentences..."); Ex. 14 at 141 ("Even if the government is not killing women directly, acts of commission and omission create conditions that promote impunity and increase risks of victimization by normalizing the targeting of women for violence, at home and in the streets. Though acts of omission may not directly involve the state in killings, inaction can also lead to such killings. Thus, through direct and indirect mechanisms, the post-coup government has exacerbated the context within which women are killed, and impunity is widespread."); Ex. 14 at 145 ("Thus, even though Honduras had laws to address violence against women before the coup, they were not effectively implemented. However, implementation has declined further in the post-coup era, even as rates of violence against women have continued to rise. Normalized views and structures that devalue women's lives and sustain violence against them existed before the coup, but the state actions after the coup have amplified these conditions and deepened inequalities."); Ex. 14 at 124 ("A report launched by Oxfam Honduras and a Honduran NGO, The Tribunal of Women Against Femicide, says that women are dying because of a deadly mixture of gun crime, political instability and the 'systematic indifference' of the police."); Ex. 22 at 45 ("Despite the existence of laws and specialized judicial institutions dedicated to addressing sexual and gender based violence in El Salvador, Honduras, and Guatemala, impunity continues to be the norm."). However, despite these difficulties, there are specialized judicial institutions dedicated to addressing sexual and gender based violence in Honduras, and Honduras has numerous laws targeting violence against women, including the Reformed Law Against Domestic Violence. Ex. 22 at 45, 108; Ex. 14 at 116. Additionally, the Penal

Code lists femicide as a specific crime. Ex. 22 at 108. "The law criminalizes domestic violence and provides penalties for up to four years in prison for domestic violence... Female victims of domestic violence are entitled to certain protective measures. Abusers caught in the act may be detained for up to 24 hours as a preventative measure." Ex. 14 at 234. Due to weak public institutional structures, the laws are not always adequately enforced. Id. "Institutions such as the judiciary, the Public Ministry, the National Police, and the Secretariat of Health attempted to enhance their response to domestic violence, but obstacles included insufficient political will, inadequate budgets, limited or no service in rural areas, absence or inadequate training and awareness of domestic violence among police and other authorities, and a pattern of male-dominant culture and norms." Id. at 235. Killings of women have decreased in recent years, from 9.1 deaths per 100,000 in 2016, to 82 per 100,000 in 2018, and 7.9 per 100,000 in 2019. Id. at 234. Thus the Court concludes that while Honduras may have difficulty enforcing its laws around domestic violence, Respondent has failed to show that the government of Honduras is unwilling or unable to control domestic violence. Galloso v. Barr, 954 F.3d 1189, 1193 (8th Cir. 2020).

b. Humanitarian Asylum

Humanitarian asylum may be granted in cases where the applicant does not have a well-founded fear of future persecution, but where:

> the applicant has demonstrated compelling reasons for being unwilling or unable to return to the country arising out of the severity of the past persecution or the applicant has established that there is a reasonable possibility that he or she may suffer other serious harm upon removal to that country.

8 C.F.R. § 1208.13(b)(1)(iii). In order to qualify for humanitarian asylum, however, the applicant must still establish that the applicant experienced past persecution on account of a protected ground though the other serious harm does not have to be on account of a protected ground. Id. Respondent has not show that she suffered past persecution on account of a protected ground. See discussion supra section V(A)(ii). Consequently, Respondent is ineligible for humanitarian asylum.

c. Withholding of Removal

i. Legal Standard

As Respondent has failed to establish a well-founded fear of persecution on account of a protected ground for asylum, she also fails under the more stringent standard of proof required for withholding of removal. See Prokopenko v. Ashcroft, 372 F.3d 941, 944 (8th Cir. 2004). Therefore, Respondent's application for withholding of removal under INA § 241(b)(3) is denied.

d. Convention Against Torture

The Eighth Circuit has held that an independent analysis of a claim under CAT is required only where there is evidence that the applicant would face torture for reasons unrelated to her claims for asylum and withholding of removal. See Guled v. Mukasey, 515 F.3d 872, 882 (8th Cir. 2008). The Court finds that Respondent has not presented evidence of a claim for relief unrelated to her underlying claim for asylum and withholding of removal. In addition, the Court finds that Respondent has not established that the government of Honduras would acquiesce to her torture if she were returned to Honduras. The country condition reports that discrimination and violence against women remain within the social fabric of Honduras, however it does not indicate that women in Honduras, or Respondent specifically, are more likely than not to suffer harm rising to the level or torture. In regards to Respondent's specific fears of harm at the hands of [redacted] the Court reiterates the discussion in V(a)(iii)(2), where the Court found that Respondent could internally relocate to avoid harm from [redacted] Additionally, as discussed above, the Court has already found that Respondent has failed to show a well-founded fear of persecution in relation to her claims. Persecution has a lower threshold of harm than torture. Even considering all of Respondent's claims and fears, she has failed to establish that it is more likely than not that she would face torture if removed to Honduras, based on her claims individually and in the aggregate.

The country condition reports also indicate that the Honduran government has established some legal protections for women. For example, femicide is listed as a specific crime in the Penal Code, and Honduras adopted legislation addressing domestic violence in 1996 which was further amended in 2005 and 2013. Ex. 22 at 108. Although the record indicates that women in Honduras experience violence, discrimination and marginalization at high levels, see Ex. 22 at 117, there is insufficient evidence to suggest that Respondent is more likely than not to suffer torture on account of her gender. Additionally, the fact that the Honduran government has not successfully ended the threat posed by gender based violence or discrimination towards women is insufficient to establish that the harm Respondent fears would be with the consent or acquiescence of a government official. See Ramirez-Peyro, 477 F.3d at 639. Thus, Respondent has not met her burden to show she would more likely than not be tortured with the acquiescence of the Honduran government. Therefore, the Court denies Respondent's application for relief under the Convention Against Torture.

ORDERS:

IT IS HEREBY ORDERED that Respondent's application for asylum under INA § 208 be **DENIED**.

IT IS FURTHER ORDERED that Respondent's request for humanitarian asylum be **DENIED**.

IT IS FURTHER ORDERED that Respondent's application for withholding of removal under INA § 241(b)(3) of the Act be **DENIED**.

IT IS FURTHER ORDERED that Respondent's application for relief under Article 3 of the Convention Against Torture be **DENIED**.

IT IS FURTHER ORDERED that Respondent be removed from the United States to **HONDURAS** based on the charge in the Notice to Appear.

If either party elects to appeal this decision, Notice of Appeal must be received by the Board of Immigration Appeals within thirty (30) days of this decision. 8 C.F.R. § 1003.38(a)–(b).

The Court has ordered you removed from the United States. If you fail to apply for the travel documents required to depart the United States, fail to present yourself for removal as instructed, fail to depart the United States as instructed, or take any action to hamper your departure, you could be subject to a civil or criminal penalties including fines or up to 10 years imprisonment.

[redacted]

Order of the Immigration Judge

Immigration Judge: Sardelli, Brian 03/15/2022

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By: Jacee Duda, ☒ Court staff | ☐ Immigration judge

Date: 03/15/2022