

RESPONDENT'S PRE-HEARING BRIEF

I. INTRODUCTION

Respondent, [RESPONDENT NAME], has a well-founded fear of persecution on account of her membership in the particular social group ("PSG") "close family members of [Family member Name]," her imputed anti-*campesino* political opinion, and the PSG of "Honduran landowners." Ms. [RESPONDENT] seeks asylum or, in the alternative, withholding of removal or, in the alternative, relief under the Convention Against Torture ("CAT").

II. FACTS

A. Summary of Facts Regarding Ms. [RESPONDENT]

Ms. [RESPONDENT] spent her entire life residing in the small village of [Village], in [City], [State], Honduras. Resp. Dec., Tab A at 2. Her family was very close and lived in a collection of houses all next to each other. *Id.* Ms. [RESPONDENT] had a particularly close relationship with her uncle, [Family member Name]. *Id.* The closeness of their relationship stemmed in part from the fact that Ms. [RESPONDENT]'s mother, [Mother Name], was the oldest of all the siblings and had basically raised [Family Member Name]. *Id.*

Ms. [RESPONDENT]'s family was well-known in [Village]. Her grandfather, [Grandfather name], had moved to the area in the 1920s and was one of the founding residents of the village. *Id.* The family was known to be very religious, and Ms. [RESPONDENT]'s mother dressed in a conservative manner that made her religion clear. *Id.* at 5. Her uncle, [Family member Name], was called by the nickname "[Family Member Nickname]" by many of the other villagers. *Id.* at 2.

When Ms. [RESPONDENT]'s grandfather, [Grandfather], moved to [Village], he was able to purchase a piece of property near to where the family lived due to the "many land sales and discounts occurring." *Id.* This small farming property was about 8 hectares and was "nothing like the size of the large plantations and farms owned by wealthier people and corporations in other places." *Id.* See also Police Report Filed by [Family member Name], Tab J at 62 (describing the plot of land as "about 60 manzanas, 8.30 hectares"). Ms. [RESPONDENT]'s family was not wealthy and were considered "middle class" in their community. Resp. Dec., Tab A at 3. Ms. [RESPONDENT]'s grandfather rented this land to a sugar company, [Company Name], who farmed sugar cane, until the early 1990s. *Id.* Ms. [RESPONDENT] notes that many small farmers sold their land to large companies like [Company Name] during this time, but her

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family did not. *Id.* At some point, the land became legally registered in [Family member Name]'s name, and was not registered in Ms. [RESPONDENT]'s grandfather's name. *Id.* at 4.

In about 2007, a group of about 30-40 land invaders moved onto the family's land. *Id.* at 3-4. Many of the individuals in the group were [Village] residents and, due to the small size of the town and the family's reputation, must have known that the land belonged to Ms. [RESPONDENT]'s family. *Id.* The land invaders claimed that the land was abandoned because Ms. [RESPONDENT]'s grandfather's name did not appear in the land registry. *Id.* at 4. Ms. [RESPONDENT] believes that these land invaders claimed to have initially been organized by groups of people in the nearby [Other Region Name] region involved in violent fights over land rights. *Id.* at 6.

When Ms. [RESPONDENT]'s mother went to speak with the group, the land invaders threatened her, warning her that they were heavily armed and could not be held responsible for what might happen. *Id.* at 5. The family took these threats very seriously because of the violence occurring around land disputes throughout Honduras. *Id.* The family specifically knew other landowners who had family members murdered during the course of the dispute. *Id.*

Ms. [RESPONDENT]'s uncle, [Family member Name], returned to the property several times to tell the land invaders to leave. *Id.* at 7. Each time he was blocked from entering the property by heavily armed land invaders and threatened. *Id.* [Family Member Name] began to work with a lawyer to gather proof of his land ownership. *Id.* at 6.

[Family Member Name] also made a police report against the land invaders. Police Report Filed by [Family member Name], Tab J at 62. Two or three police officers accompanied [Family Member Name] to the property, but when they saw that the land invaders were heavily armed with AK-47s and other guns, said they could not offer any assistance and left. Resp. Dec., Tab A at 6.

Around this same time, Ms. [RESPONDENT] and her family noticed that gang members were present amongst the land invaders. *Id.* at 7. Ms. [RESPONDENT] identified them as gang members by their baggy clothes and tattoos. *Id.* at 7-8. M-18 and a smaller gang called "8" or "Gang of [Redacted]" were active in the area, committing acts of violence and involved in narcotrafficking. *Id.* at 8. The family became even more afraid of the threats of violence from the land invaders now that they knew these dangerous and violent gangs were involved. *Id.*

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Ms. [RESPONDENT]'s uncle, [Family member Name], began a media campaign against the land invaders and gave interviews to several newspapers and television stations. *Id.* The media campaign angered the land invaders and they called [Family Member Name] a liar. *Id.*

In [Month] of 2008, [Family member Name] was violently shot to death by a group of men involved with the land invasion. *Id.* at 9. *See also* Documentation Regarding the Death of [Family member Name], Tab K at 66-76. The group of assassins followed the family to the hospital and, while armed, entered the hospital and asked to see [Family Member Name]'s body. Resp. Dec., Tab A at 10. These assassins also appeared at [Family Member Name]'s wake. *Id.* at 11. Ms. [RESPONDENT]'s family was also informed that a large party with fireworks occurred on the land occupied by the invaders to celebrate her uncle's death. *Id.* The police took a report of the incident at the hospital, but conducted no follow-up investigation or made any arrests. *Id.*

Ms. [RESPONDENT] was devastated and suffered deeply from her uncle's death. She fainted upon hearing the news, *id.* at 10, and sank into a deep depression requiring her to take a leave of absence from her job as a nurse for two months. *Id.* She and the rest of the family also felt extremely afraid "because the land invaders hated [the] family enough to use violence." *Id.* at 11-12. The family went into hiding and rarely left the house in the months following [Family Member Name]'s murder. *Id.* at 12.

After [Family member Name]'s death, Ms. [RESPONDENT]'s mother continued the legal action he had begun. *Id.* During the course of the proceedings, the land invaders presented a fraudulent document to the court which had been signed and issued by [Name], the head of the [Organization]. *Id.* The judge found that the land had rightfully passed to Ms. [RESPONDENT]'s mother after [Family Member Name]'s murder, and an eviction order was eventually issued against the land invaders. *Id.* at 12-13. *See also* Certification from the Administrative Court of [City], [State], Tab L; Judge's Order Commencing Eviction Proceedings. The invaders were angered and resisted the eviction order, but eventually left the land in about 2009. Resp. Dec., Tab A at 13. In 2011, Ms. [RESPONDENT]'s mother gifted her two small plots of land, *see* Documentation of [Mother Name]'s Gift of Two Plots of Land to Respondent, Tab O at 88-111, and Ms. [RESPONDENT] began building a home on the property in about 2013. Resp. Dec., Tab A at 15-16.

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Members of Ms. [RESPONDENT]'s family experienced repeated and escalating threats from the land invaders and gang members in the years following the murder of Ms. [RESPONDENT]'s uncle. Ms. [RESPONDENT]'s mother was threatened by land invaders who threatened to send the M-18 and [Redacted] gang members working with them to kill the family. *Id.* at 13. Her mother filed a police report and requested an order of protection, but there was no response to the police report and the order of protection was denied. *Id.* at 14. *See also* Police Report Filed by [Mother Name], Tab N at 84 (reporting death threats from armed land invaders working with gang members). Armed land invaders continued to pass through the family's land and threatened to harm members of the family when they encountered them in the community. Resp. Dec., Tab A at 14. The invaders attempted to run Ms. [RESPONDENT]'s father off the road and crash, and her aunt was threatened so many times by land invaders at her job that she was forced to quit. *Id.* Ms. [RESPONDENT] felt constantly afraid, especially as her job as a nurse in [City] required her to commute at night. *Id.* at 14-15. During this period, the group of land invaders and gang members had moved onto nearby property belonging to the sugar company, [Company Name], that Ms. [RESPONDENT]'s grandfather had previously rented the family's land to. *Id.* at 15. This conflict also sometimes led to violence. *Id.*

In early [Month] 2014, a man named [X Name] who had been in a car accident was brought into the hospital where Ms. [RESPONDENT] worked. *Id.* at 16. Ms. [RESPONDENT] noticed that he was carrying a gun, and became nervous when [X Name] said he recognized her. *Id.* He specifically identified her as the niece of "[Family Member Nickname]," which had been her uncle's nickname. *Id.* at 16-17. He then told her that he knew who had killed her uncle, how much they had been paid, and that he had been at her uncle's wake. *Id.* at 17. When she asked how he knew these things, he told her he would tell her "someday." *Id.* Ms. [RESPONDENT] became even more alarmed when the man commented on how big her daughter was getting and how beautiful the house she was building was going to be. *Id.* [X Name] told her that he knew more about her than she could ever imagine, and Ms. [RESPONDENT] understood everything he said to be a threat. *Id.* She was so terrified that she had to leave the room, and was so inconsolable that she was given medication to help her calm down and she left her shift early. *Id.* When Ms. [RESPONDENT] returned home, she found out that [X Name] was one of the men who killed her uncle. *Id.*

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Other members of the hospital staff also became frightened as [X Name] continued to inquire about Ms. [RESPONDENT]'s whereabouts, and especially when other armed men arrived at the hospital and asked for Ms. [RESPONDENT]. *Id.* at 17-18. The men told the hospital staff that they were "friends of [the] family" and "needed to resolve something that was pending." *Id.* at 18. The men said they knew where Ms. [RESPONDENT] lived and would go there next to find her. *Id.* The hospital staff felt so afraid of these men and scared for Ms. [RESPONDENT]'s safety that they told the men she was on vacation and advised Ms. [RESPONDENT] to not return to work. *Id.* [X Name] and the other armed men expressed suspicion at Ms. [RESPONDENT]'s sudden vacation and returned to the hospital several times looking for her. *Id.* at 18-19.

Ms. [RESPONDENT] felt so panicked and upset by these threats that she could not eat or sleep, and was constantly watching for these men to come to her home. *Id.* She developed stomach problems from her anxiety, forcing her to seek urgent medical care in the U.S. *Id.* at 19. *See also* Respondent's Medical Records, Tab Q at 114. Fearing for her life, Ms. [RESPONDENT] fled Honduras only a few days after [X Name] and the other armed men threatened her at the hospital. *Id.* at 20.

B. Facts Regarding Violence Associated with Land Disputes in Honduras

The history of land conflicts in Honduras is extremely politicized and associated with high levels of violence. Previous agrarian reform efforts unsuccessfully attempted to decrease unequal land distribution. *See e.g.,* USAID, *Country Profile, Property Rights and Resource Governance: Honduras*, Tab T-4 at 246. Then, in 1992, the government of Honduras passed the Agricultural Modernization Law, which ultimately led to the concentration of land into the hands of large-scale agro-producers and corporations and away from smaller farmers and farmers' cooperatives. *See e.g., id.;* Insight Crime, *Honduras Elites and Organized Crime: The Cachiros*, Tab T-3 at 218.

Farmworkers' cooperatives, sometimes known as *campesinos*, claimed that many of the land sales made to the large-scale agro-producers and corporations were illegal, particularly in the northeastern regions of Honduras. *See e.g.,* New York Times, *In Honduras, Land Struggles Highlight Post-Coup Polarization*, Tab T-9 at 392. *Campesino* groups attempted to regain control of the land now owned by corporations by land invasion and squatting. *Id.* at 390.

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Violence erupted throughout the region as *campesinos* were expelled from the land and then retaliated, and this violence has only continued to escalate since the 2009 coup ousting former President Manuel Zelaya. *Id.* at 392. *See also, e.g.,* U.S. Department of State, *Honduras 2016 Human Rights Report*, Tab T-1 at 171. (“Violence and land-rights disputes involving indigenous people, agricultural workers, landowners, the extractive industry, and development projects continued in rural areas . . .”). “[T]he invasion conflict has become synonymous with violence.” *La Prensa, Invasions cause losses and costs of L400 million*, Tab T-17 at 431.

Organized criminal groups have taken advantage of the violence and chaos surrounding the land conflicts. Honduras, the principle point through which cocaine enters the region, has become a “true narco state,” where transnational criminal groups (“TCOs”), including narcotrafficking organizations and gangs, exercise great power in the absence of legitimate government authority and even with the active complicity of government actors. Douglas Farah, *Central America’s Northern Triangle: A Time for Turmoil and Transitions*, Tab T-6 at 344-45. Crucial narcotrafficking routes run directly through the northeastern regions of Honduras where violent land conflicts are centralized. *Id.* Gangs have developed linkages to drug trafficking organizations and cartels, further empowering TCOs and increasing levels of violence. Lieutenant Colonel Marco V. Barahona Fuentes, United States Army War College, *Gangs in Honduras: A Threat to National Security*, Tab T-7 at 365. The U.S. Department of State describes that “[o]rganized criminal elements have used the land conflicts as cover to conduct illicit activities, including theft and trafficking of arms and drugs . . . members of civil society contended that police were working with criminals embedded in certain field worker collectives in the region and involved in robberies, kidnappings, and extortion.” U.S. Department of State, *Honduras 2012 Human Rights Report*, Tab T-2 at 251. The Cachiros, a powerful narcotrafficking TCO, has been highly active in northeastern Honduras and has worked with large-scale agro-producers, M-18, and the *campesino* groups. *Insight Crime*, Tab T-3 at 222, 227-28. TCOs have provided *campesinos* with weapons and encouraged them to invade areas useful for drug trafficking, further escalating the violence. *Id.* at 228; *New York Times*, Tab T-9 at 393. *Campesino* groups working with TCOs possess military grade weapons and successfully attack police and other security forces. *E.g., La Prensa, Armed groups evolve in [Other Region Name]*, Tab T-16 (“What they do is take the estates forcibly with their powerful weapons, since

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the guards only have shotguns while the criminals carry AK-47s, with which they can shoot someone from a great distance away.’”); La Prensa, *The Government is urged to put an end to the chaos in [Other Region Name]*, Tab T-19 at 441-42, (describing invaders associated with organized criminal groups as attacking police and military contingents and carrying “high-caliber weapons that the police and army do not have, like R-15, M-60 machine guns, AK-47, and FAL rifles”).

Though many land conflicts involve large-scale agro-producers, owners of smaller farms have also experience land invasions and violence. In part due to these land invasions, smaller farms are the most tenure insecure and have the least access to land. USAID, Tab T-4, at 244, 248 (stating that small farms, or *minifundios*, of less than 50 hectares are the most tenure insecure). Owners of smaller farms and their families face violence connected to land conflicts and have been killed. *E.g., id.* at 250 (“a group of squatters in Tegucigalpa attacked and killed ten family members of a local police chief with whom they had a long-running land dispute.”); Immigration and Refugee Board of Canada, *Honduras: Agrarian reform, including land conflicts and the government’s response*, Tab T-8 at 386 (“500 peasants armed with machetes, pistols and machine guns attacked a home and then set the house on fire, killing 12 people”). Though centralized in the northeastern coastal regions, these conflicts and associated violence have spread throughout Honduras. *See, E.g.,* Fox News, *Honduran Land Dispute Rages as Thousands Occupy Farms*, Tab T-20 at 469 (describing land conflicts in “in the provinces of Cortes, [State], Santa Barbara, Intibuca, Choluteca, Camayagua and Francisco Morazan”).

Specifically, [Village] and the surrounding areas have experienced land conflicts. Many of the land invasions have occurred on properties belonging to [Company Name], the large sugar producer operating in the area. *See, e.g.,* La Prensa, *Campesinos are evicted in [Village]*, Tab T-20 at 451. [Company Name] and *campesino* groups in [Village] have engaged in a protracted legal battle in which the [Organization] initially expropriated significant portions of [Company Name] land to *campesino* groups. *See* Proceso Digital, *INA minister confirms land expropriation of sugar companies [Company Name] and Cahsa*, Tab T-24 at 466; Honduras Accompaniment Project, *[COMPANY NAME]: Conciliation Process Stalls While Criminalization Continues*, Tab T-14 at 416-17. Violence related to TCOs and drug trafficking also occurs in and around

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[Village] as the area is “dominated by the Mara 18.” *La Prensa, Gang members from the 18 may have committed the massacre of [City]*, Tab T-11 at 398.

The government of Honduras has been unable to control the violence associated with land conflicts, and at times, has actively contributed to it. The U.S. State Department of State describes the government’s role in the violent land conflicts:

“A lack of transparent investigations into violent crimes in the region led some human rights nongovernmental organizations (NGOs) to claim that the government was uninterested in resolving the underlying problems in the area and that police and military in the region were allied with large landholders against field worker collectives. Other members of civil society contended that police were working with criminals embedded in certain field worker collectives in the region and involved in robberies, kidnappings, and extortion.” U.S. Department of State, Tab T-2 at 251.

The [Organization] specifically has been accused of corruption and issuing fraudulent titles, thus promoting land disputes and the associated violence. *See El Heraldito, [Name] was reported for corruption*, Tab T-12 at 406. Violent events associated with land conflicts “slip rapidly beyond the government’s control,” *New York Times*, Tab T-9 at 391, and impunity reigns as police and other security forces have been unwilling and unsuccessful in attempts to control the violence. *E.g. La Prensa*, Tab T-19 at 442. Police, military, judges, and prosecutors have refused to even attempt to enter areas where violence associated with land conflicts occurs. *Id. See also Proceso Digital, Another estate is occupied by campesinos in [Other Region Name]*, Tab T-22 at 460 (“Members of the National Police arrived in the area with the aim of evicting the zone, but they gave up on the effort to avoid bloodshed”).

The TCOs working with groups of land invaders have deeply infiltrated the government such that “the state is often no longer the main power center or has become so entwined with a complex and inter-related web of illicit activities and actors that the state itself at times becomes part of the criminal enterprise.” *Farah*, Tab T-6 at 335. “One would be hard-pressed to find one major political party that does not have multiple members of its senior leadership directly tied to one TOC group or regional Transportista syndicate or another” and “police are beholden to ever-present TOC groups.” *Id.* at 350, 344-45. State actors are directly cooperating and colluding with TCO activities in Honduras. *Barahona Fuentes*, Tab T-7 at 378.

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The U.S. Department of State confirms the activities of powerful TCOs and the Honduran government's complicity and corruption. The Report states that "Organized criminal elements, including narcotics traffickers and local and transnational gangs such as MS-13 and the 18th Street gang, committed murders, extortion, kidnappings, human trafficking, and acts of intimidation against police, prosecutors, journalists, women, and human rights defenders." U.S. Department of State, Tab T-1 at 174. The report also describes high levels of corruption and collusion with TCOs throughout the government, *id.* at 180, specifically noting an incident in which senior police officials connected with TCOs murdered anti-narcotics officials with impunity. *Id.* at 172. Any anti-corruption efforts undertaken were found to be ineffective. *Id.* at 191-92.

III. MS. [RESPONDENT] IS ELIGIBLE FOR ASYLUM

A. Ms. [RESPONDENT] has been persecuted.

Persecution encompasses "a threat to the life or freedom of, or the infliction of suffering or harm upon, those who differ in a way regarded as offensive" *Matter of Acosta*, 19 I&N Dec. 211, 222 (BIA 1985). Persecution need not be physical, and may be psychological harm, including as a result of persecution of family members, *Jorge-Tzoc v. Gonzales*, 435 F.3d 146, 150 (2d Cir. 2006), and threats. *Matter of O-Z- & I-Z-*, 22 I&N Dec. 23, 25-26 (BIA 1998) (finding that numerous threats, when considered cumulatively with other forms of harm, constituted persecution). Threats are most likely to constitute persecution where they are "imminent," "concrete," or "so menacing as to cause significant actual suffering or harm." *Ci Pan v. U.S. Att'y Gen.*, 449 F.3d 408, 413 (2d Cir. 2006) (stating that an adjudicator should consider whether threats were "so menacing as to cause significant actual suffering or harm"); *see also Guan Shan Liao v. U.S. Dep't of Justice*, 293 F.3d 61, 70 (2d Cir. 2002). When multiple incidents and types of harm have occurred, the court must consider all harms cumulatively. *Manzur v. DHS*, 494 F.3d 281, 290 (2d Cir. 2007).

The cumulative harm that Ms. [RESPONDENT] suffered, namely threats and psychological harm, rises to the level of persecution. The threats issued by [X Name] and the other armed men who repeatedly sought Ms. [RESPONDENT] out at her place of employment are undoubtedly so menacing as to cause actual suffering and harm. Ms. [RESPONDENT] was directly targeted by a man who was involved in the brutal murder of her uncle, making his

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threats credible and showing his ability and willingness to enact violence. By specifically reminding Ms. [RESPONDENT] of her uncle's death and revealing his involvement in it, [X Name] made apparent that he was threatening Ms. [RESPONDENT] with death. His revelation of his detailed knowledge of Ms. [RESPONDENT]'s life suggests that he had been watching her and had the concrete ability and intention to harm her and her daughter. The repeated and insistent requests he and the other armed men made for Ms. [RESPONDENT] to settle a "pending" matter make the threats imminent. Violence and assassinations by gang members and affiliated groups of land invaders are corroborated by country conditions materials, making the threats she received far from conjectural.

The manner in which these threats were delivered amounted to a threat of death so "menacing" that Ms. [RESPONDENT] became unable to eat or sleep regularly. She also developed severe stomach pains that continued even after her arrival in the United States, forcing her to seek urgent medical treatment. She underwent severe psychological harm as she worried for her safety and that of her family. She had suffered similar psychological harm by living in fear in the years following her uncle's murder, feeling afraid to leave the house, especially as land invaders and gang members had continued to threaten and attempt to physically harm the family since her uncle's death. Ms. [RESPONDENT] also suffered severe psychological harm from the trauma of her uncle's death. She fainted when she heard the news, and sank into a deep depression for months due to the closeness of their relationship and the brutal manner of his murder. Taken cumulatively, the serious threats and psychological harm Ms. [RESPONDENT] experienced constitute past persecution.

B. Ms. [RESPONDENT]'s fear of future persecution is well-founded.

When an applicant has suffered past persecution, there is an automatic presumption of future persecution. 8 C.F.R. § 1208.13(b)(1). This automatic finding of well-founded fear of future persecution requires that the Department show by clear and convincing evidence that a *reasonable* expectation of relocation or other fundamental changes to country conditions would rebut the applicant's reasonable fear of future persecution. 8 C.F.R. § 1208.13(b)(1)(i)-(ii). Notably, a finding of reasonable relocation cannot require an applicant to live in hiding indefinitely, and that factors such as family ties, economic needs, age, gender and health must be considered to show that relocation is indeed "reasonable." 8 C.F.R. § 1208.13(b)(3).

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There is no evidence to suggest fundamental changes in the violence associated with land disputes and committed by TCOs since Ms. [RESPONDENT] fled Honduras. Additionally, she would be unable to avoid future persecution through internal relocation. Honduras is a small country, *see Matter of Kasinga*, 21 I&N Dec. 357, 367 (BIA 1996) (noting that persecution is more likely to be country-wide in smaller countries), and the highly organized and country wide networks of TCOs would allow TCO members working with the land invaders to successfully seek out those they seek to harm despite internal relocation efforts. Similarly, violence associated with land disputes occurs country wide, and Ms. [RESPONDENT]'s prior connection to land disputes (through the protected grounds discussed *infra*) would be discoverable and put her at risk anywhere she attempted to reside.

Even if this Court finds that the harm Ms. [RESPONDENT] has already experienced does not rise to the level of persecution, she has still met her burden to prove that she has a well-founded fear of future persecution. A 10% chance that an applicant will be harmed establishes a well-founded fear. *INS v. Cardoza-Fonseca*, 480 U.S. 421, 440 (1987). The imminent, concrete, and menacing nature of the threats she received make her fear of assassination more than objectively reasonable. The pattern of threats and violence against her family from the land invaders and members of criminal organizations associated with them demonstrate the high degree of animus against Ms. [RESPONDENT] and her family, and the willingness and ability of her persecutors to carry out harm against her. [X Name], one of the men who murdered her uncle, and his armed companions repeatedly inquired about her absence at the hospital, even after she had left Honduras. This persistence suggests that Ms. [RESPONDENT] would be at even more risk upon her return, as her previous escape would be viewed as an act of resistance, generating even more animus against her and motivation for her persecutors to harm her. Country conditions materials documenting the high levels of violence associated with land disputes and committed by TCOs additionally corroborate the well-foundedness of her fear.

C. At least once central reason Ms. [RESPONDENT] was persecuted is because she is a close family member of [Family member Name].

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1. Ms. [RESPONDENT] is a member of the particular social group of "close family members of [Family member Name]."

Members of a family may constitute a particular social group (PSG). *Matter of L-E-A-*, 27 I&N Dec. 40, 42 (BIA 2017). *See also, e.g., Acosta*, 19 I&N Dec. at 233. *Matter of L-E-A-* also notes that "the inquiry in a claim based on family membership will depend on the nature and degree of the relationships involved and how those relationships are regarded by the society in question," and found that family members residing together was evidence of a cognizable PSG. 27 I&N Dec. at 42-43. Using this case-by-case analysis, the Board has previously found that a family group as large as a Somali sub-clan formed a cognizable PSG in part because "membership is a highly recognizable immutable characteristic . . . acquired at birth and . . . inextricably linked to family ties." *Matter of H-*, 21 I&N Dec. 337, 342 (BIA 1996). Similarly, the Court of Appeals for the Second Circuit ("Second Circuit") found in *Vumi v. Gonzales*, 502 F.3d 150, 155 (2d Cir. 2007) that PSGs based on family ties to a specific individual have received long-standing recognition.

The Board has set out a three-pronged test to determine whether a PSG is cognizable. The group must be (1) composed of members who share a common immutable characteristic; (2) socially distinct within the society in question, and (3) defined with particularity. *Matter of M-E-V-G-*, 26 I&N Dec. 227, 237 (BIA 2014).

Here, Ms. [RESPONDENT]'s membership in the PSG of "close family members of [Family member Name]" is immutable. [Family member Name] is the brother of Ms. [RESPONDENT]'s biological mother, a fact that she is unable to change. Their shared past experience, as niece and uncle within a close-knit family living in the same location, is also something that Ms. [RESPONDENT] cannot change, thus rendering it immutable. *See Koudriachova v. Gonzalez*, 490 F.3d 255, 263 (2d Cir. 2007) ("it is clear that a shared past experience . . . can be the type of immutable characteristic that will characterize a particular social group.") The death of her uncle, [Family Member Name], does not change the fact that Ms. [RESPONDENT] is his biological niece, nor that they shared these past experiences.

The PSG of "close family members of [Family member Name]" is also socially distinct. Ms. [RESPONDENT]'s familial relationship to [Family Member Name] was well known in the community of [Village], where her Ms. [RESPONDENT]'s parents, uncle, aunt, and siblings had

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long resided in adjacent houses. Ms. [RESPONDENT], as her mother’s oldest child, describes a particularly close relationship with her uncle, having spent the majority of her life in his presence. She also notes that her mother, as the oldest of her own siblings, essentially raised her uncle, who was the youngest. In this sense, [Family Member Name] and Ms. [RESPONDENT] may even be viewed as possessing sibling-like relationship, having been raised by the same woman.

Ms. [RESPONDENT]’s proposed social group of “close family members of [Family member Name]” is also defined with particularity. The parameters of the relationship between [Family Member Name] and Ms. [RESPONDENT], particularly given their perceived closeness and the physical proximity to each other in which they lived, are clearly established. Indeed, the Court of Appeals for the Fourth Circuit (“Fourth Circuit”) has found that “[t]he family unit—centered here around the relationship between an uncle and his nephew—possesses boundaries that are at least as ‘particular and well-defined’ as other groups whose members have qualified for asylum.” *Crespin-Valladares v. Holder*, 632 F.3d 117, 125 (4th Cir 2011).

2. Ms. [RESPONDENT]’s membership in the particular social group of “close family members of [Family member Name]” is at least one central reason she was persecuted.

A protected ground must be “at least one central reason for persecuting the applicant,” 8 USC § 1158(b)(1)(B)(i). An applicant is not required to demonstrate that the protected ground is the only or even THE central reason that the persecution occurred. *See Acharya v. Holder*, 761 F.3d 289, 299 (2d Cir. 2014). The persecutors may possess mixed motives for harming the applicant. *E.g. Aliyev v. Mukasey*, 549 F.3d 111, 117-18 (2d Cir. 2008) (holding that adjudicators are required to engage in mixed motives analysis in determining nexus). A nexus to a protected ground can still exist where one of the persecutor’s motives is economic, including when enacted through extortion. *Osorio v. INS*, 18 F.3d 1017, 1028 (2d Cir. 1994); A persecutor’s motive can also evolve; even if targeting may not have initially occurred on account of a protected ground, a persecutor can later become motivated by animus against a protected trait. *Delgado v. Mukasey*, 508 F.3d 702, 707 (2d Cir. 2007). Nexus to a protected ground can also be found for particular applicant even in situations of widespread violence and civil strife. *Matter of H-*, 21 I&N Dec. at 343.

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An applicant need not show “with absolute certainty” why an incident of persecution occurred. *Uwais v. U.S. Att’y Gen.*, 478 F.3d 513, 517 (2d Cir. 2007). The question of nexus between a persecutor’s motive and a protected ground requires nuanced case-by-case analysis of both direct and circumstantial evidence regarding a persecutor’s motive. *Matter of D-R-*, 25 I&N Dec. 445, 453 (BIA 2011). Adjudicators may make reasonable inferences regarding nexus. *Id.* The Second Circuit has found evidence of nexus based on statements made during and proceeding persecutory acts, *e.g. Aliyev* 549 F.3d at 188, the context and timing of the persecutory acts, and the targeting of other individuals possessing the protected trait, *e.g., Uwais*, 478 F.3d at 518.

Ms. [RESPONDENT] presents ample direct and circumstantial evidence that at least one central reason the harm she experienced occurred is because she is a close family member of [Family member Name]. Even prior to the threats issued to Ms. [RESPONDENT] directly, and following the murder of [Family Member Name], members of his close family unit continued to experience threats and attempts at physical harm from individuals associated with the land invading group in [Village]. This ongoing campaign of actions and comments against [Family Member Name]’s close family members makes clear that the land invaders perceived the family unit as a group against whom they would continue to focus their animus. The death of [Family Member Name] did not satisfy the land invaders’ desire to do harm to the family. On the day that [X Name] targeted Ms. [RESPONDENT] at the hospital where she worked, he began their conversation by asking directly if she was the niece of “[Family Member Nickname],” the nickname that the land invaders regularly used to refer to her uncle. The conversation and threats that followed occurred in the precise context of Ms. [RESPONDENT]’s relationship to her uncle. Later, after Ms. [RESPONDENT] had fled the hospital, [X Name] and his associates continued to refer to her family in describing their desire to locate her, indicating to her co-workers that they were “friends of [her] family” and that they needed to “resolve something.” Resp. Dec., Tab A at 18.

Harm to individuals who are family members of someone who is involved in a land dispute or targeted by a criminal group is also corroborated by country conditions materials. *See, e.g.,* United States Agency for International Development, *Country Profile, Property Rights and Resource Governance: Honduras*, Tab T-4 at 250 (“a group of squatters in Tegucigalpa attacked

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and killed ten family members of a local police chief with whom they had a long-running land dispute.”); United Nations High Commissioner for Refugees, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Honduras*, Tab T-5 at 327-28 (Describing that family members of individuals involved in land disputes or targeted by criminal groups “can reportedly also be a target for attacks and assassination by gangs, organized criminal groups and elements of the security forces, sometimes even after the person who was initially targeted has fled or has already been killed.”)

Ms. [RESPONDENT]’s case is distinguishable from *Matter of L-E-A-*, where the Board denied a family-based claim based for lack of nexus. 27 I&N Dec. at 45-47. In *L-E-A*, the Board found that the targeting of the applicant was merely a “means to an end” of achieving the cartel’s economic objective to sell drugs applicant’s father’s store. *Id.* The Board found insufficient evidence of nexus to the applicant’s family-based PSG because the cartel members had expressed no animus toward the family when they approached the applicant, and merely requested that he provide them with access to the store. *Id.* at 47. The Board reasoned that any other person with access to the store, including an employee with no familial ties, could have similarly been targeted. *Id.* The Board also found significant the fact that the threats to the applicant’s family stopped after they began to make extortion payments to the cartel. *Id.*

Here, record evidence demonstrates that the land invaders and the criminal elements with whom they associated, including gang members and [X Name]’s group of assassins, were motivated by animus toward to family of [Family member Name]. Even though the land invaders may have been initially or partially motivated by an economic benefit they could gain by possessing the family’s land, they came to hate the family so much that they were motivated to commit murder. An initial level of threatening and unwarranted behavior was apparent from land invaders’ earliest interactions with Ms. [RESPONDENT]’s mother. Despite having already gained access to the property, and knowing fully that Ms. [RESPONDENT]’s family would not carry weapons due to their religious beliefs, *see* Resp. Dec., Tab A at 4-5, the land invaders still chose to confront the family while heavily armed and make threats against them within their first conversation following the invasion. Their initial actions thus demonstrated a disproportionate tendency toward violence and extreme level of animus beyond any concrete interest in either gaining or physically defending the property itself.

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The murder of [Family member Name] falls within this sphere of animus. The record shows the land invaders' clear belief that the property was either entirely abandoned, with no registration in any of the family members' names, or that it should have been registered under Ms. [RESPONDENT]'s grandfather's name. *See id.* at 4. ("The group of invaders told my mother that none of our family members' names appeared on the land registry... I think that the land invaders had only searched the property records for my grandfather's name, not realizing that my grandfather had registered the land in my uncle's name.") As such, from the land invaders' perspective, the murder of [Family Member Name] could not simply have been an attempt to eliminate the legal owner of the property and thus resolve the land dispute in question. Their lack of understanding of his true status as the property's owner makes clear that his murder was an act of pure animus against the family as a whole, not merely the furtherance of an economic goal.

Similarly, [X Name]'s targeting of Ms. [RESPONDENT] several years later centered on her membership in her uncle's family. [X Name]'s identification of Ms. [RESPONDENT] as "the niece of '[Family Member Nickname]'" and comments on his death preceded any mention of her connection to the land itself. Ms. [RESPONDENT] believes that the land invaders had grown to hate her and their family, and that even if they had given up their land to this group, she would still have been harmed or killed, *id.* at 22, further demonstrating that Ms. [RESPONDENT] was targeted because of her family relationship, and not for purely economic reasons.

Ms. [RESPONDENT]'s situation is analogous to that of the Romanov family, which is discussed for illustrative purposes in *Matter of L-E-A-*. The Board found that the Romanovs presented a clear example of a family who was harmed because of animus against their family, in particular because this animus was generated in part for political reasons. *L-E-A-*, 27 I&N Dec. at 44-45. The ability of an individual's political activities to put his family members at risk was previously recognized by the Second Circuit in *Vumi*, where the motive to harm the applicant, as a member of her husband's family, had arisen, at least in part from his suspected participation in a political assassination. *Vumi*, 502 F.3d at 154-56. The actions that [Family member Name] took in opposition to the land invading *campesino* group, in particular his public media campaign against them, should be viewed as inherently political in the Honduran context (discussed further

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infra). His political actions created an animus against his close family members that motivated Ms. [RESPONDENT]'s persecutors to harm her because of her kinship ties to her uncle.

D. At least one central reason Ms. [RESPONDENT] was persecuted is because an anti-campesino political opinion was imputed upon her.

1. Ms. [RESPONDENT]'s persecutors imputed an anti-campesino political opinion upon her.

The question of whether an opinion is “political,” and thus a protected ground, requires fact and context specific analysis. *Castro v. Holder*, 597 F.3d 93, 100 (2d Cir. 2010). Political opinions are broader than electoral politics and can concern many aspects of state and societal activity. *See, e.g., Delgado*, 508 F.3d at 702 (refusal to offer technical assistance to the FARC can give rise to imputed political opinion); *Yueqing Zhang v. Gonzales*, 426 F.3d 540 (2d Cir. 2005) (opposition to endemic corruption is a political opinion); *Osorio*, 18 F.3d at 1029-31 (union activity can be a political activity).

An applicant need not actually hold the political opinion; the persecutor can impute the political opinion onto the applicant. *E.g., Matter of S-P-*, 21 I&N Dec. 486, 489 (BIA 1996). Thus, the crucial question is what the persecutor perceives the applicant's political beliefs to be, even if that perception is erroneous. *Gao v. Gonzales*, 424 F.3d 122, 129 (2d Cir 2005).

Actions taken by the applicant suggesting a political belief, regardless of the applicant's actual motivation can lead to imputation of a political opinion. *Id.* at 129-130 (political opinion imputed where applicant's selling of Falun Gong books was motivated solely by profit). The political activities of people with whom the applicant associates, including family members, can lead to the imputation of a political opinion. *See, e.g., Uwais*, 478 F.3d at 517 (imputed political opinion based on suspected affiliation with Tamil Tiger tenants in an annex to the applicant's house); *Diallo v. Holder*, 498 Fed.Appx. 83, 86 (2d Cir. 2012) (imputed political opinion based on the applicant's father's political activities).

Here, Ms. [RESPONDENT] presents sufficient circumstances for the imputation of anti-campesino political opinion imputed upon her. First, given the context of high levels of impunity for and complicity with violence associated with land disputes in Honduras, including that committed in connection with TCOs, an opinion regarding land invading *campesino* groups should be considered inherently political. The family's prior renting of the land to [Company

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Name], the sugar company with whom the land invading *campesino* groups in [Village] are engaged in a protracted legal and political battle, allows the land invaders to impute an anti-*campesino* political opinion onto the family, including Ms. [RESPONDENT], based on this association with a corporation directly opposing their land rights. The political actions of Ms. [RESPONDENT]'s uncle, [Family member Name], lead to the imputation of an anti-*campesino* political opinion on Ms. [RESPONDENT]. [Family Member Name]'s media campaign against the land invasion announced his political opinion against the land invading *campesino* groups publicly, allowing the land invaders to view all of the family's actions toward them as political acts. The requests for the invaders to leave the land, police reports, and legal eviction process in which a document produced by the [Organization] was declared fraudulent must be viewed through this political context. The family's continued possession of the land, and Ms. [RESPONDENT]'s beginning to build a home on this land should also be viewed as political statements against the land rights of invading *campesino* groups.

2. Ms. [RESPONDENT]'s imputed anti-*campesino* political opinion is at least one central reason she was persecuted.

The record presents direct and circumstantial evidence that the imputation of an anti-*campesino* political opinion is at least one central reason she was persecuted. Her uncle, [Family member Name], was assassinated shortly after his media campaign publicly announcing his anti-*campesino* political campaign. The party held by the land invaders, including fireworks, after his murder suggests that his elimination was viewed as far more than retaliation during a personal dispute, and instead a political victory worthy of great celebration. The continued threats against Ms. [RESPONDENT]'s family after the dispute had been settled through a legal process also demonstrate that, in the eyes of the land invaders and associated criminal organizations, the conflict was much more than a personal dispute, and that instead, the family, including Ms. [RESPONDENT], were on the opposing side of a larger political battle occurring throughout Honduras. Continuing to pass through the family's land after the eviction is a political assertion of the land rights of *campesino* groups, and being heavily armed while doing so, suggests that the group expected resistance from the family due to their opposing political opinion. Telling the family that "they think they got their way," Resp. Dec, Tab A at 14, also implies that the land invaders saw Ms. [RESPONDENT] and her family as carrying an opinion against the land rights

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of *campesino* groups. The theft of building materials for Ms. [RESPONDENT]'s home also shows that the land invaders saw her assertion of her land rights as a political act that their movement required them to act against.

When [X Name], one of the men who had killed her uncle, threatened Ms. [RESPONDENT], he specifically mentioned her uncle, whose political actions had led to the imputation of an anti-*campesino* political opinion upon her. His mention of her continued construction of her home on the land, also suggests that this perceived assertion against the land rights of the land invaders was at least one central reason she was harmed and at risk of assassination. [X Name] and the armed men's description of a "pending" matter, also suggests that the land invaders and associated criminal groups viewed Ms. [RESPONDENT] as a political opponent continuing to oppose the land rights of the land invading *campesinos* even beyond the concluded legal eviction process.

E. At least one central reason Ms. [RESPONDENT] was persecuted is because she is a landowner.

1. Ms. [RESPONDENT] is a member of the particular social group of "Honduran landowners."

In *Matter of Acosta*, the Board specifically recognized that land ownership can form the basis of a PSG. 19 I.& N. Dec. at 233. ("The shared characteristic . . . might be a shared past experience such as former military leadership or land ownership."). Other Circuit Courts have also found that landowners can constitute a PSG. *E.g.*, *N.L.A. v. Holder*, 744 F.3d 425, 439 (7th Cir. 2014). ("Colombian land-owning farmers"); *Cordoba v. Holder*, 726 F.3d 1106, 1114 (9th Cir. 2013) ("Both our court and other circuits have followed the BIA's lead in recognizing that landownership may be the basis of a particular social group."); *Tapiero de Orejuela v. Gonzales*, 423 F.3d 666, 672-673 (7th Cir. 2005) (Holding that "the educated, landowning class of cattle farmers targeted by FARC" constitutes a social group, particularly in the Latin American context where the "history of conflict between large landowners and the rest of society is a long one," and distinguishing between wealth and land ownership.)

Ms. [RESPONDENT] is a member of the PSG of "Honduran landowners." After her mother formally inherited the family property from her uncle, she donated two parcels of land

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within the property directly to Ms. [RESPONDENT]. *See* Documentation of [Mother Name]'s Gift of Two Plots of Land to Respondent, Tab O at 88.

Here, Ms. [RESPONDENT]'s membership in the PSG of "landowners in Honduras" is immutable. Her status as a landowner would continue to constitute a "shared past experience," of the sort referenced in *Acosta*, whether or not she continued to possess the particular property in question. The fact of Ms. [RESPONDENT]'s having owned land cannot be undone.

The PSG of "Honduran landowners" is also socially distinct. Ongoing land disputes in Honduras have led to frequent references to landowners in national and local media, confirming Honduran society's recognition of the group. *See generally* Tabs T-9–T-25. Additionally, in *Matter of A-R-C-G-*, 26 I&N Dec. 388, 394 (BIA 2014), the Board found significant evidence of social distinction where legal frameworks exist to protect members of the proposed group. The fact that a legal framework of property law exists in Honduras thus indicates that the concept of a landowner is socially distinct. The BIA specifically recognized that "land ownership" is an "easily recognizable trait[]." *See Matter of C-A-*, 23 I&N Dec. 951, 960 (BIA 2006).

The PSG of "Honduran landowners" is defined with particularity. The category of individuals in Honduras who legally own tracts of land has finite and verifiable boundaries. Here, the land invaders targeting Ms. [RESPONDENT] and her family were able to access specific records of landownership through the Honduran land registry. The existence of a land registry in which landownership is explicitly defined and documented demonstrates the particular nature of the PSG.

2. Ms. [RESPONDENT]'s membership in the particular social group of "Honduran landowners" is at least one central reason she was persecuted.

The land invaders and associated criminal groups were motivated to harm Ms. [RESPONDENT] at least in part because she is a landowner. [X Name]'s specific mention of Ms. [RESPONDENT]'s building on her property implies that he and the associated land invaders are motivated to harm Ms. [RESPONDENT] due to her ownership of property. The fact that Ms. [RESPONDENT]'s mother, the other owner of the property, has received continuous threats also provides evidence that their persecutors are motivated by their status as landowners.

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Due to the politicization of land rights in Honduras, being a landowner is perceived as much more than the mere possession of property. Thus, persecutory acts against landowners are not solely motivated by the potential economic gain from the seizure of the property. The land invaders, and particularly [X Name] and the other armed men with him, were not threatening and causing psychological harm to Ms. [RESPONDENT] simply because they wanted to take the land from her. The trait of land ownership itself triggered animus in itself due to the politicization of land rights and associated violence in the Honduran context.

F. The government of Honduras is unable or unwilling to control Ms. [RESPONDENT]'s persecutors.

An applicant's feared future or past persecution must be carried out by a group or groups that the government is "unwilling or unable to control." *Acosta*, 19 I&N Dec. at 222. Governments are not expected to provide the highest level of security to every citizen at all times, but protection must be meaningful and bring the applicant's chances of persecution beneath 10%. The Second Circuit and the Board have made clear that nominal state action in the face of imminent harm does not support a finding that the government is willing and able to control a persecutor. *E.g., Delgado*, 508 F.3d at 709. In a recent unpublished decision, the Second Circuit specifically found that the Honduran government was unwilling or unable to protect the applicant from organized criminal elements in the country. *Celedon-Herrera v. Holder*, 627 Fed.Appx. 6, 8-9 (2d Cir. 2015).

Where a government consistently demonstrates high levels of corruption, collusion and impunity with private persecutory actors, it is derelict in its duty to provide meaningful protection to its citizens against such groups. *Aliyev*, 549 F.3d at 118. Here, Honduran state actors have been complicit with the groups involved in the violent land conflicts and TCOs to the degree that the state is furthering the violence associated with land conflicts. In addition to direct collusion with Ms. [RESPONDENT]'s persecutors, any nominal actions taken to combat the violence associated with land conflicts have failed, as demonstrated by the continuing high levels of violence and law enforcement resistance to intervening in violent land disputes. Country conditions materials submitted clearly support that the Honduran government has proven "unable, and in some cases, unwilling to protect and provide security to the citizens' civil and human rights." Fuentes, Tab T-7 at 372.

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Ms. [RESPONDENT] and her family have directly experienced the failure of state protection. Their repeated requests for help from the police proved futile. Prior to his murder, Ms. [RESPONDENT]'s uncle sought assistance from local police by reporting the land invaders. Nevertheless, the police soon "saw that the group was larger and even more armed than they were, and after this they told [her] uncle that they could not do anything else." Resp. Dec. at 20. This same police force "failed to make any arrests after [her] uncle's assassination." *Id.* at 35. When the land invaders continued to make death threats against Ms. [RESPONDENT]'s mother in the wake of the murder, her own police report also failed to garner a response.

The judicial order evicting the land invaders from the family's property does not constitute state protection from the persecution Ms. [RESPONDENT] fears. Ms. [RESPONDENT] does not argue that the potential loss of her family's land is persecution—she fears the associated violence, threats, and resulting psychological harm from which the state has repeatedly failed to protect her and her family.

Record evidence demands the conclusion that Honduras is unable and unwilling to protect Ms. [RESPONDENT] from the land invaders and associated members of criminal organizations who seek to assassinate her, much as it was unable and unwilling to protect her from the psychological harm and threats that she has already suffered.

G. The Immigration Court backlogs denied Ms. [RESPONDENT] the opportunity to file her asylum application before her one-year deadline, and she is thus eligible for an extraordinary circumstances exception.

The deadline for applying for asylum is within one year from the applicant's last arrival in the United States. 8 C.F.R. § 208(a)(2)(B). An applicant may qualify for an exception to the one-year filing deadline by: 1) establishing the existence of extraordinary circumstances; 2) establishing that the extraordinary circumstances were directly related to the failure to timely file; 3) not having intentionally created the circumstances, through his or his own inaction, for the purpose of establishing a filing-deadline exception; and 4) by filing the application within a reasonable period given the circumstances that related to the failure to timely file. 8 C.F.R. § 208.4(a)(5).

Here, Ms. [RESPONDENT] experienced an extraordinary circumstance due to the unprecedented backlogs in the Immigration Courts that prevented her from filing her application before her one-year deadline of DATE, 2015. Ms. [RESPONDENT]'s Notice to Appear

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("NTA") was not filed with the Immigration Court before her one-year filing deadline, and thus, when Ms. [RESPONDENT] attempted to timely file her application with the Houston Immigration Court on DATE, 2015, the application was rejected because the case was not pending before the court. *See* Asylum Application Received by Houston Immigration Court DATE, 2015, Tab S-1 at 133. The application was also rejected because, at the time of Ms. [RESPONDENT]'s one-year filing deadline, asylum applications had to be filed in court in front of an Immigration Judge and could not "be done as a window filing." *Id.* Because Ms. [RESPONDENT] was not provided with the opportunity to file her application at a Master Calendar Hearing before her one-year filing deadline, she additionally attempted to file her application by mailing her it to the United States Citizenship and Immigration Services Nebraska Service Center. *See* USCIS Biometrics and Receipt Notices, Tabs S-2, S-3 (showing that Ms. [RESPONDENT]'s asylum application was received by USCIS on DATE, 2015). Ms. [RESPONDENT] then filed her asylum application at her first Master Calendar Hearing at the [CITY] Immigration Court.

The extraordinary circumstance that Ms. [RESPONDENT]'s NTA was not filed before her one-year deadline directly caused Ms. [RESPONDENT]'s application to be rejected, and she undertook additional methods of submitting her application. Ms. [RESPONDENT] did not cause this extraordinary circumstance, and filed her application in a reasonable period of time at her first Master Calendar Hearing.

IV. IN THE ALTERNATIVE, MS. [RESPONDENT] IS ELIGIBLE FOR PROTECTION UNDER THE CONVENTION AGAINST TORTURE

In the alternative, Ms. [RESPONDENT] is eligible for protection under the Convention against Torture (CAT) because it is more likely than not that she would be tortured if removed to Honduras. Torture is the intentional infliction of severe pain or suffering by, or at the instigation of, or with the consent or acquiescence of a public official. 8 C.F.R. §§ 1208.18(a)(1)-(2). The severe pain and suffering inherent in the murder that Ms. [RESPONDENT] fears easily qualifies as torture. The fact that Ms. [RESPONDENT] and her family have already suffered harm, along with the high rates of violence associated with land conflicts and committed by *campesinos* and TCOs and the severity of their threats against her, make it more likely than not that Ms. [RESPONDENT] will be tortured in Honduras.

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CAT protection requires that the torture would occur with the acquiescence of a public official. A public official must have awareness of or remain “willfully blind” to the activity constituting torture prior to its commission, and thereafter breach his or her legal responsibility to intervene to prevent such activity. 8 C.F.R. § 1208.18(a)(7); *Delgado*, 508 F.3d at 708-709. *Campesinos* working with TCOs in Honduras regularly carry out torture against their targets with impunity due to the corruption and collusion within the highest levels of the Honduran government, where TCOs even operate as a de-facto state power. Such high levels of complicity, collusion, and impunity in Honduras more than satisfy the requirements of awareness and inaction by public officials required for willful blindness and acquiescence. *See De La Rosa v. Holder*, 598 F.3d 103, 107 (2d Cir. 2010) (“where a government contains officials that would be complicit in torture, and that government, on the whole, is admittedly incapable of actually preventing that torture” acquiescence should be found even if some government officials would not be complicit in the applicant’s torture). Accordingly, Ms. [RESPONDENT] qualifies for CAT protection.

V. CONCLUSION

For the above reasons, this Court should grant Ms. [RESPONDENT] asylum, withholding of removal, or, in the alternative, CAT protection.

Respectfully submitted,

[ATTORNEY NAME], Esq.

Counsel for Ms. [RESPONDENT]