

¹ The Court will refer to both Lead Respondent and Rider Respondent as “Respondents.”

On August 18, 2017, Respondent filed a Form I-589 application for asylum, withholding of removal, and protection under the United Nations Convention Against Torture ("CAT"), therein naming Rider Respondent as beneficiary.² Exhibit 2. On September 6, 2017, Rider Respondent filed a separate Form I-589 application. Exhibit 2A.³ On December 22, 2017, the Court held an individual hearing to consider the merits of Respondent's application. Thereafter, the Court reserved for a written decision.

II. Evidence Presented

The Court takes administrative notice of the country conditions as described in the most recent United States Department of State Human Rights Practices Report for the designated country of El Salvador. Bureau of Democracy, Human Rights and Labor, U.S. Dep't of State, *El Salvador Country Reports on Human Rights Practices – 2017* (Apr. 20, 2018), available at <https://www.state.gov/documents/organization/277575.pdf> ("2017 El Salvador Country Reports"). 8 C.F.R. § 1208.12(a); *Quitaniella v. Holder*, 758 F.3d 570, 574 n.6 (4th Cir. 2014); *Ai Hua Chen v. Holder*, 742 F.3d 171, 179 (4th Cir. 2014); *Matter of R-R-*, 20 I&N Dec. 547, 551 n.3 (BIA 1992).

The Court considered all documentary and testimonial evidence submitted by the parties contained in the record of proceedings, as articulated in the verbatim transcript of the hearing held on December 22, 2017. 8 C.F.R. § 1240.9. The evidentiary record contains documentary exhibits, marked and admitted as Exhibits 1 through 3. Respondent testified in support of her application for relief. Respondent's testimony was consistent with the sworn statement she submitted in support of her Form I-589 application, which she adopted and the Court incorporates herein by reference. Exhibit 3, Tab C at 37-42; *Matter of Fefe*, 20 I&N Dec. 116, 118 (BIA 1989)). The Court summarizes her claim below.

Respondent's claim is based upon sexual harassment and threats of physical violence from 18th Street gang ("Mara 18") members against her and her son in El Salvador.⁴ Respondent paid

² The Court's conclusions of law and fact regarding Lead Respondent apply equally to Rider Respondent, who is listed as derivative beneficiary on Lead Respondent's asylum application. 8 U.S.C. § 1158(b)(3)(A); Exhibit 2 at 2-3. By contrast, Lead Respondent cannot claim Rider Respondent as derivative beneficiary on her withholding of removal petition. See *Niang v. Gonzales*, 492 F.3d 505, 513 (4th Cir. 2007) ("[T]he statute permitting withholding of removal does not encompass derivative withholding claims, that is, claims for withholding of removal based on persecution to another person; instead, an alien seeking withholding of removal must establish that they will suffer harm if removed."). Therefore, the conclusions on Lead Respondent's withholding application apply only to Lead Respondent.

³ The Court finds Rider Respondent not to be an unaccompanied alien child ("UAC"). Exhibit 1A. The one-year filing deadline continues to be applicable for *accompanied* minor principal applicants (those with a parent or legal guardian). See INA § 208(a)(2)(E); INA § 235(d)(7)(A); William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat 5044 (2008) (emphasis added). Rider Respondent entered on August 22, 2016. Exhibit 1A. Since his asylum filing deadline was August 22, 2017, and Rider Respondent filed his application on September 6, 2017, the Court considers Rider Respondent's asylum application untimely. The Court, however, will consider Rider Respondent's individual application for withholding of removal and protection under CAT. The Court notes that Lead Respondent named Rider Respondent, her child, as a derivative beneficiary on her application for asylum. Exhibit 2 at 2-3.

⁴ The Court notes that El Salvador has hundreds of gang "cliques" which have affiliations with larger gangs such as the 18th Street gang and the MS-13. Exhibit 3, tab E at 73.

extortion money to the gangs every two weeks. Mara 18 gang members attempted to rape Respondent in two separate occasions. In one occasion, one gang member approached Respondent, put a gun to her stomach, and said he had never been with a pregnant woman before. Respondent began to cry and begged him to let her go. The gang member let Respondent go, but told her that she would not escape next time. Mara 18 gang members watched Respondent's house closely and knew she did not have a male figure in her home to protect her from harassment and violence. Respondent moved to Suichitoto for approximately one year, but returned to La Union because they were threatened and told to leave by a rival gang. Respondent fears for her life and her son's life if they are returned to El Salvador.

III. Asylum

Any individual who is physically present in the United States, irrespective of status, may receive asylum, in the exercise of discretion, provided she filed a timely application and qualifies as a refugee within the meaning of section 101(a)(42)(A) of the Act. INA § 208. An alien bears the burden of proving eligibility for asylum. *Naizgi v. Gonzales*, 455 F.3d 484, 486 (4th Cir. 2006); INA § 208(b)(1)(B)(i); 8 C.F.R. § 1208.13(a). To establish asylum eligibility under the Act, the applicant must show that she was subjected to past persecution or that she has a "well-founded" fear of future persecution "on account of race, religion, nationality, membership in a particular social group, or political opinion." 8 C.F.R. § 1208.13(b)(1). An alien who establishes past persecution is entitled to a rebuttable presumption that she has a well-founded fear of future persecution. *Id.* Absent past persecution, an applicant may independently establish a well-founded fear of persecution. *Ngarurih v. Ashcroft*, 371 F.3d 182, 187 (4th Cir. 2004).

A. Credibility and Corroboration

When testimony is offered in support of an application for relief, the Immigration Court must determine whether such testimony is credible. INA § 240(c)(4)(B). For applications filed after May 11, 2005, the provisions of the REAL ID Act of 2005 govern the credibility analysis. In making a credibility determination, the Immigration Court considers the totality of the circumstances and all relevant factors. *See id.* § 240(c)(4)(C); *Matter of J-Y-C-*, 24 I&N Dec. 260, 262 (BIA 2007). Generally, to be credible, testimony should satisfactorily explain any material discrepancies or omissions. INA § 240(c)(4)(C). The Immigration Court may base a credibility determination on the witness' demeanor, candor, or responsiveness, and the inherent plausibility of her account. INA § 240(c)(4)(C). Other factors include the consistency between written and oral statements, without regard to whether an inconsistency goes to the heart of the Applicant's claim. *Id.*; *J-Y-C-*, 24 I&N Dec. at 263-66.

Where 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. *Matter of S-M-J-*, 21 I&N Dec. 722, 725-26 (BIA 1997); *see Matter of M-D-*, 21 I&N Dec. 1180, 1182-83 (BIA 1998). Furthermore, an applicant should provide documentary support for material facts that are central to her claim and easily subject to verification. *S-M-J-*, 21 I&N Dec. at 725. Considering the record as a whole, the Court finds Respondent's testimony to be credible. *See* INA § 240(c)(4)(C). Respondent testified candidly and provided a sufficiently detailed, plausible, and internally consistent accounts of the events in El Salvador that prompted Respondents' departures and fear

of return. Respondent's testimony was consistent with documentary evidence submitted in support of Respondents' applications. See generally Exhibit 3, Tabs B-L.

B. One Year Time Bar

An alien applying for asylum must show "by clear and convincing evidence that the application has been filed within one year after the date of the alien's arrival in the United States." INA §208(a)(2)(B). Respondent entered the United States on or about August 22, 2016. Exhibit 1. Respondent filed her asylum application on August 18, 2017. Exhibit 2. Accordingly, the Court finds that Respondent timely filed her application.

C. Past Persecution

Persecution constitutes a requisite degree of harm that rises above "mere harassment," *Li v. Gonzales*, 405 F.3d 171, 177 (4th Cir. 2005); see also *Matter of Acosta*, 19 I&N Dec. 211, 222 (BIA 1985), and occurs at the hands of the applicant's government or an agent the government is unwilling or unable to control, see *Crespin-Valladares v. Holder*, 632 F.3d 117, 128 (4th Cir. 2011); *Acosta*, 19 I&N Dec. at 222.

a. Past Harm

The past harm Respondent suffered rises to the level of persecution. Respondent testified credibly to being approached and sexually harassed two separate times by Mara 18 gang members. In one occasion, while Respondent was pregnant with her son, the gang member placed a gun on stomach and attempted to rape her. Additionally, Respondent and her mother were bound and robbed inside their home. Further, Respondent testified that during her temporary relocation within El Salvador, she was harassed and threatened by rival gang members in Suitchitoto. These incidents, in the aggregate, rise beyond mere harassment to the level of persecution. *Matter of O-Z- and I-Z-*, 22 I&N Dec. 23 (BIA 1998). These incidents rise to the level of persecution. See *Hernandez-Avalos v. Lynch*, 784 F.3d 944, 949 (4th Cir. 2015) ("[W]e have expressly held that 'the threat of death qualifies as persecution.'" (citing *Crespin-Valladares*, 632 F.3d at 126)). The Court next considers whether the harm Respondent suffered occurred at the hands of an agent or agents the Salvadoran government was unable or unwilling to control.

b. Government Unwilling or Unable to Control

Respondent has demonstrated the Salvadoran government was unable or unwilling to protect her from his past persecution. Respondent testified that she did not report the death threats and sexual harassment she received to the police because she believes many Salvadoran police officer are corrupt and cooperate with gang members. Respondent testified that one police officer lived on her street. The police officer never offered to assist Respondent, even knowing that gang members were watching her home, entered her home and bound Respondent and her mother. Nevertheless, even assuming the Salvadoran government was willing to protect Respondent, independent documentary evidence demonstrates it would have been unable to do so. Country conditions evidence strongly supports Respondent's assertion that the Salvadoran government was unwilling or unable to protect her from his persecutors. Exhibit 3, Tabs F-K. According to the

U.S. Department of State's 2017 Human Rights Report for El Salvador, principal human rights problems stemmed from widespread extortion and other crime in poor communities throughout the country. *See 2017 El Salvador Country Reports* at 31. Other human rights issues included "widespread corruption; weak rule of law, which contributed to high levels of impunity and government abuse, including unlawful killings by security forces, discrimination, and delay and lack of compliance with court rulings[.]" *Id.* at 12. There were reports of security force involvement in unlawful or extrajudicial killings, including fifty-three possible cases being investigated by the attorney general. *Id.* The U.S. Department of State also reports that in many neighborhoods, armed groups and gangs targeted certain persons, interfered with privacy, family, and home life, and created a climate of fear that authorities were unable of restoring to normal. *Id.* Gangs interfered with freedom of movement for Salvadoran persons due to the strength of criminal gang activity:

Each gang had its own controlled territory. Gang members did not allow persons living in another gang's controlled area to enter their territory, even when travelling in public transportation. Gangs forced persons to present identification cards (that contain their addresses) to determine where they lived. If gang members discovered that a person lived in a rival gang's territory, that person might be killed, beaten, or not allowed to enter the territory. Bus companies paid extortion fees to operate within gang territories, often paying numerous fees for the different areas in which they operated. The extortion costs were passed on to paying customers.

Id. at 16. Country conditions evidence demonstrates the Salvadoran government has been unable or unwilling to protect Respondent from her persecutors: Mara 18 gang members. Further, country conditions evidence indicates that violence against women—including rape and other forms of sexual violence—is widespread and pervasive in El Salvador, yet largely uncontrolled by the Salvadoran government. *See id.* at 21-24. The vast majority of sexual crimes go unpunished. *Id.* As of July 2017, a total of 18,658 women "had been victims of sexual-related crimes and 63 defendants had been convicted for sexual-related crimes against women." *Id.* at 21. Further, gang members often enjoy impunity for the crimes they commit. *Id.* Because Respondent suffered harm rising to the level of persecution at the hands of agents the Salvadoran government was unable or unwilling to control, the Court finds Respondent suffered past-persecution. The Court next considers whether Respondent suffered past persecution on account of a protected ground.

D. Statutory Grounds

The Court finds that Respondent has established that her life or freedom would be threatened on account of a protected ground if she is returned to El Salvador. To satisfy the statutory test for asylum, an applicant must make a two-fold-showing. She must demonstrate the presence of a protected ground, and she must link the feared persecution, at least in part, to it. *Saldarriaga v. Gonzales*, 402 F.3d 461, 466 (4th Cir. 2005); *Cordova v. Holder*, 759 F.3d 332, 337 (4th Cir. 2013) (citation omitted).

a. Political Opinion

Respondent claims she is statutorily eligible for asylum on account of her imputed political opinion “to oppose the Mara 18 or in the case of relocation to MS-13 territory in the future if necessary.” Resp’t Brief at 19.⁵ The Court notes that resistance to gang violence does not establish a political opinion. *Matter of S-E-G-*, 24 I&N Dec. 579, 589 (BIA 2008). The Court finds that Respondent has not met her burden of establishing her political opinion. Respondent has not shown that her resistance to gang control and domination are politically motivated or that a political opinion has been imputed to her. “[W]hatever behavior an applicant seeks to advance as political, it must be motivated by an ideal or conviction of sorts before it will constitute grounds for asylum. Because of this requirement, ‘fears of ‘retribution over purely personal matters or general conditions of upheaval and unrest do not constitute cognizable bases for granting asylum.’” *Saldarriaga v. Gonzales*, 402 F.3d at 466 (quoting *Belbruno v. Ashcroft*, 362 F.3d 272, 284 (4th Cir. 2004) (other citations omitted)).

b. Particular Social Group

Under the REAL ID Act, an alien’s membership in a particular social group must be “at least one central reason for persecuting the applicant” to establish their eligibility for one of the five protected grounds for asylum. INA § 208(b)(1)(B)(i) (emphasis added); *Oliva v. Lynch*, 807 F.3d 53 (4th Cir. 2015); accord *Crespin-Valladares v. Holder*, 632 F.3d at 127. Incidents of harm that are consistent with acts of private violence, or merely show a person has been the victim of criminal activity, do not constitute evidence of persecution based on a statutorily protected ground. *Huaman-Cornelio v. BIA*, 979 F.2d 995, 1000 (4th Cir. 1992). Although the Act does not define the phrase “particular social group,” the Board of Immigration Appeals (“BIA”) has established three requirements for a group to be cognizable under the Act: (1) group members must share a common, immutable characteristic; (2) the group must be defined with sufficient particularity; and (3) the group must have adequate social distinction. *Matter of W-G-R-*, 26 I&N Dec. 208, 212, 214–18 (BIA 2014); *Matter of Acosta*, 19 I&N Dec. at 233.

Respondent claims she is statutorily eligible for asylum based on her membership in two particular social groups she defined as “single El Salvadoran mothers” or alternatively “El Salvadoran female heads of household.” Resp’t Brief at 8, 10. In a light most favorable to Respondent, the Court considered the more apt particular social group of “single Salvadoran mothers who lack male protection.” For the following reasons, the Court finds this subsequent delineation of Respondent’s particular social group is cognizable.

i. Immutability

Immutable characteristics are those attributes that members of the group “either cannot change, or should not be required to change because it is fundamental to their individual identities or consciences.” *Acosta*, 19 I&N Dec. at 233. Sex, color, kinship, and shared past experiences are prototypical examples of an immutable characteristic that can form the basis of a particular social group. *Id.* Here, membership in the particular social group of “Single Salvadoran mothers

⁵ Averments of counsel contained in a legal brief are arguments, and not evidence. *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503 (BIA 1980).

who lack male protection” is immutable because members cannot change or should not be required to change their status as “single,” “Salvadoran,” and “mothers.” Respondent’s social group satisfies the immutability requirement because it is defined by gender, nationality, and familial status. *See Acosta*, 19 I&N Dec. at 233; *Cece v. Holder*, 733 F.3d 662, 669 (7th Cir. 2013) (finding that a woman’s decision to remain unmarried is an immutable characteristic).⁶ Respondent became a mother when she became pregnant with her son. During Respondent’s pregnancy, a Mara 18 gang member approached Respondent, placed a gun to her stomach, told her that he had never been with a pregnant women before, and that next time she would not be able to escape him. Accordingly, the Court finds the social group satisfies the immutability requirement.

ii. Particularity

A particular social group must also have a clearly defined discrete boundary of who is a member of the group. *Matter of M-E-V-G-*, 26 I&N Dec. 227, 239 (BIA 2014) (“A particular social group must be defined by characteristics that provide a clear benchmark for determining who falls within the group.”) (citation omitted). The primary focus of the particularity requirement is that the group’s boundaries must be easily delimited and verified in the society in question. ; *Temu v. Holder*, 740 F.3d 887, 895 (4th Cir. 2014) (holding that a social group must have identifiable boundaries to meet the particularity element); *see also Matter of W-G-R-*, 26 I&N Dec. at 214. Additionally, the group must “not be amorphous, overbroad, diffuse, or subjective.” *M-E-V-G-*, 26 I&N Dec. at 239. Respondent’s proposed social group is limited by the clear terms “single,” “Salvadoran,” “mothers,” and “who lack male protection.” The members of this group are limited to those who possess all four of these characteristics. The proposed social group is precisely defined, and is not amorphous or overbroad. Therefore it meets the particularity requirement of the particular social group definition.

iii. Social Distinction

The final element of a particular social group is that it is sufficiently socially distinct to constitute a recognized class of persons within the applicant’s society. *M-E-V-G-*, 26 I&N Dec. at 237; *Matter of C-A-*, 23 I&N Dec. 951, 959 (BIA 2006) (stating that sex or family relationships are easily recognizable as particular social groups). To meet this requirement, the applicant must provide evidence that “society in general perceives, considers, or recognizes persons sharing the particular characteristic to be a group.” *W-G-R-*, 26 I&N Dec. at 217. The Court finds that the evidence in the record demonstrates that Salvadoran society makes meaningful distinctions based on the characteristics that comprise Respondent’s social group. *See id.* Notably, the record shows that there is a high level of violence committed against Salvadoran women. Domestic violence, rape, and other sexual crimes are widespread. *See 2017 El Salvador Country Reports* at 21-24. The Salvadoran government has made efforts to combat violence against women by creating specialized courts for violence against women. *Id.* at 22-23. These efforts demonstrate the government’s position that Salvadoran women need specialized protection and thus, that they are viewed as a distinct group from the general population in El Salvador. *See Matter of S-E-G-*, 24 I&N Dec. at 586-87. Having found that “single Salvadoran mothers who lack male protection” is

⁶ The Court recognizes that cases from other circuits hold no binding precedential value and can only be considered as persuasive authority. However, the Seventh Circuit’s discussion provides a useful aid in considering similar factors before this Court.

immutable, particular, and socially distinct, the Court finds that it is a cognizable particular social group under the Act.⁷

c. Nexus

The applicant must also show that her membership in the particular social group was at least “one central reason” for the persecution she suffered. INA § 208(b)(1)(B)(i). Thus, a protected ground must be at least one central reason for the persecution. *Cordova v. Holder*, 759 F.3d at 337. A central reason is one that is more than “incidental, tangential, superficial, or subordinate to another reason for harm.” *Quinteros-Mendoza v. Holder*, 556 F.3d 159, 164 (4th Cir. 2009) (quoting *Matter of J-B-N-*, 24 I&N Dec. 208, 214 (BIA 2007)). The applicant may provide either direct or circumstantial evidence to establish that the persecutor was or would be motivated by her actual or imputed status or belief. *See I.N.S. v. Elias-Zacarias*, 502 U.S. 478, 483 (1992).

Respondent has provided sufficient direct and circumstantial evidence to establish that her membership in that social group was at least one central reason for the persecution she suffered. *See id.* The attempted rape, sexual harassment, extortion, and threats perpetrated on Respondent is not unique. Salvadoran gang members are known to sexually assault and enslave women in order to extort money, terrorize communities and suppress opposition. *See 2017 El Salvador Country Report* at 21-24. This is representative of commonly held patriarchal views in El Salvador where sexual violence directed at women is widespread. *See id.* Further, the common nature and impunity of sexual violence against women allows gang members to abuse women without fear. *See id.* Even when violence against women is reported, convictions are rare. *See id.* While the Court notes Respondent was persecuted by the gangs for extortion, Respondent’s pregnancy, status as a mother, and the lack of male protection was a central reason for her persecution. *See Matter of J-B-N-*, 24 I&N Dec. at 214.

The country conditions evidence further establishes that Respondent is particularly vulnerable in El Salvador as a single Salvadoran mother without male protection. *See generally* Exhibit 3, Tabs F-L. The nature and frequency of the violence against women indicates an animus that is specifically directed toward women in El Salvador. *Id.* Respondent testified Mara 18 gang members constantly watched her home and requested money from her. Respondent testified the Mara 18 gang members knew that Respondent lived in a house without male protection. Respondent further testified that the gang members watched everyone’s house and specifically targeted homes without male figures and the gang members preyed on the female’s vulnerability. Respondent explained that one of her neighbors, who also did not have a male living in her household, was targeted and consequently murdered for not paying extortion money to the gangs. The fact that the gang used these traits in determining that Respondent was vulnerable indicates that Mara 18 gang members specifically targeted her because of her characteristics that she maintains as a part of her social group. Respondent credibly testified that in one occasion a Mara 18 gang member persecuted her because she was pregnant—a mother. The gang member specifically told Respondent that he had never been with a pregnant woman, and proceeded to attempt to rape Respondent. Furthermore, because Mara 18 gang members specifically targeted

⁷ Because the Court finds that Respondent was persecuted on the basis of being a single Salvadoran mother who lacks male protection, it need not examine other particular social groups.

Respondent and other women Respondent knows with the same distinguishing characteristics, the Court finds that the gang targeted Respondent for something more than a general criminal purpose. Thus, if Respondent had not been a single Salvadoran mother without male protection, the gang would not have attempted to rape her; as such, Respondent's particular social group was "at least one central reason" for her persecution. INA § 208(b)(1)(B)(i).

E. Well-Founded Fear of Future Persecution

Respondent benefits from a rebuttable presumption of future persecution. Thus, the Court analyzes whether DHS has indeed rebutted Respondent's presumption of future persecution by demonstrating, by a preponderance of the evidence, that (1) there has been a fundamental change in circumstances such that Respondent's life or freedom would not be threatened on account of a protected ground; or (2) that Respondent could avoid a future threat to her life or freedom by reasonably relocating to another part of El Salvador.

The Court finds DHS has not rebutted Respondent's presumption of future persecution. DHS has not submitted persuasive evidence of fundamental changed circumstances in El Salvador, such that Respondent's life or freedom would not be threatened on account of a protected ground. Although there is some evidence of the Salvadoran government's renewed efforts to combat gang violence, documentary evidence demonstrates the persistence of gang violence and corruption within El Salvador. *See e.g.*, Exhibit 3, Tabs F-L.

DHS also failed to show there is a reasonable internal relocation alternative available to Respondent. Although DHS argues Respondents could internally relocate because they lived Suchitoto for approximately one year, Respondent credibly testified gang members eventually learned of her presence there when she had to leave the house to take her son to the hospital. Additionally, she stated she could not live anywhere in El Salvador because Mara 18 has a countrywide presence, and therefore, gang members would learn of her return. Country conditions evidence supports this assertion. Moreover, even assuming there are communities in El Salvador in which Respondent may avoid Mara 18 detection, DHS failed to address the reasonability of such relocation options. *See* 8 C.F.R. § 1208.16(b)(3) (listing factors to consider when assessing the reasonableness of internal relocation).

In addition, the threats to Respondent's life are from a group of criminal individuals that the government of El Salvador is unwilling or unable to control. *See Matter of S-A-*, 22 I&N Dec. 1328, 1335 (BIA 2000). A stable government's mere "difficulty" in controlling private actors' conduct is not necessarily indicative of an inability to do so. *Matter of McMullen*, 17 I&N Dec. 542, 546 (BIA 1980). However, even where a government displays a willingness to control the private actors, such as gangs, the "efficacy of those efforts" must also be examined to determine the government's ability. *See Madrigal v. Holder*, 716 F.3d 499, 506 (9th Cir. 2013) (emphasis added). Although Respondent did not report to the police the extortion and harassment against her and her family, the Court finds that she did report some violence, and her lack of reporting does not preclude her from protection. *See* Exhibit 3, Tabs F-L. Respondent testified that she could not call the police out of fear of further harm by gang members. Failure to report the actions or threats of the private actors to the government does not preclude an applicant's claim if the applicant can show that going to the police would be futile or subject him to a greater risk of harm.

Matter of S-A-, 22 I&N Dec. 1328. Documentary evidence demonstrates the persistent and pervasive corruption and gang collusion within Salvadoran police and security forces. See generally Exhibit 3, Tabs F-L. Thus, Respondent's fear that she would be further harmed by gangs for filing a police report does not preclude her claim. Accordingly, the Court finds that Respondent has met her burden to show she meets the criteria for refugee status and is eligible for asylum. *Naizgi v. Gonzales*, 455 F.3d 484, 486 (4th Cir. 2006); INA § 208(b)(1)(B)(i); 8 C.F.R. § 1208.13(a). Because the Court grants Respondent asylum, it does not reach her claim for protection under withholding of removal. The Court next analyzes whether Respondent has demonstrated she merits a positive exercise of discretion.

F. Discretion

Asylum is a discretionary form of relief from removal, and an applicant bears the burden of proving not only statutory eligibility for asylum, but that she also merits asylum as a matter of discretion. *Matter of A-B*, 27 I&N Dec. 316, 345 n.12 (A.G. 2018); 8 U.S.C. §§ 1158(b)(1), 1229a(c)(4)(A)(ii); see also *Romilus v. Ashcroft*, 385 F.3d 1, 8 (1st Cir. 2004). Respondent has demonstrated she merits a favorable exercise of discretion. Respondent testified credibly that she experienced death threats, sexual harassment, and persecution at the hands of the gangs in El Salvador, and she fears she will suffer serious harm or death if she returns to El Salvador. Respondent has no criminal record or other negative equities. Therefore, the Court grants her application for asylum in the exercise of discretion.

IV. Conclusion

The Court grants Respondent's applications for asylum under the Act, as she demonstrated that she faced past persecution on account of a protected ground, and DHS has not rebutted Respondent's presumption of a well-founded fear of future persecution. The Court does not reach Respondent's claim for withholding of removal. Therefore, the Court enters the following orders:

ORDERS

IT IS HEREBY ORDERED that
GRANTED.

application for asylum is

IT IS HEREBY ORDERED
asylum is GRANTED.

derivative application for

JULY 11, 2018
Date

U.S. Immigration Judge

APPEAL RIGHTS: Both parties have the right to appeal the decision in this case. Any notice of appeal must be received at the Board of Immigration Appeals within thirty calendar days after the date of service of this decision.