

APPENDIX F

Sample RFR (Annotated)

The sample Request for Re-Interview or Reconsideration (RFR) below is meant to accompany the Asylum Seeker Advocacy Project (ASAP)'s Guide, *Vindicating the Rights of Asylum Seekers at the Border and Beyond: A Guide to Representing Asylum Seekers in Expedited Removal and Reinstatement of Removal Proceedings*.

The full guide is available on ASAP's website, at asylumadvocacy.org/resources. The guide is intended to assist lawyers and advocates and is not a substitute for independent legal advice in a client's case. The cases cited herein do not constitute an exhaustive search of relevant case law in all jurisdictions.

The sample RFR below includes common arguments regarding new evidence and new legal authority, as well as procedural and legal errors on the part of the Asylum Officer (AO). This example draws on factual scenarios from multiple cases and is not meant to be read as a single RFR. It is not necessary for the actual RFR to include several arguments. Some successful RFRs include only one of the arguments below, whereas others include several arguments.

This example RFR is written to request a new credible fear interview (CFI), but could be adapted to be used to request a new reasonable fear interview (RFI). This example focuses on a request for a new interview for the primary applicant or mother. However, an alternative strategy for some RFRs for an adult with children is to request reconsideration or a new interview with a

child who has a credible fear of return but was not sufficiently interviewed or was not previously interviewed at all. In these cases, the introduction should focus on the AO's failure to provide the child with an opportunity to express their fear of return.

In preparing an RFR, advocates should include client-specific facts, case law relevant to the claim, and exhibits and country conditions research tailored to the particular facts and country of origin. Finally, advocates should note that this guide was updated in April 2019 and should take care to review the latest case law and policy in light of *Matter of A-B-*, 27 I. & N. Dec 316 (A.G. 2018), *Grace v. Whitaker*, 344 F. Supp.3d 96 (D.D.C. 2018), and subsequent developments.

[ATTORNEY NAME]
[ADDRESS]
[PHONE# / EMAIL]

[DATE]

[CITY] Asylum Office
[EMAIL ADDRESS]

Re: Request for Reconsideration
[FULL NAME], A# [NUMBER]
[CHILD'S NAME] A # [NUMBER]

Dear Asylum Officer:

[FULL NAME] (A# [NUMBER]), through undersigned *pro bono* counsel, respectfully requests reconsideration of [HER] [AND HER CHILD'S] negative credible fear finding based on new evidence, new legal authority, and legal error in determining there was no nexus based on the record developed during the interview.

[NAME] is in custody [WITH HER X-YEAR-OLD CHILD], [CHILD'S NAME] (A# [NUMBER]), at [DETENTION CENTER], and has been detained since [DATE]. On [DATE], [NAME] received a negative credible fear determination. However, during the credible fear interview [SHE] felt intimidated, did not understand many of the interpreter's questions, was denied accommodation for [HER] disability, Post-Traumatic Stress Disorder ("PTSD"), and did not have the opportunity to provide and develop critical information related to threats [SHE] received. New facts were not previously disclosed because the Asylum Officer's interviewing style, improper procedures, and failure to ask follow-up questions prevented [NAME] from providing critical evidence. Furthermore, the intervening legal authority cited in this request was not previously available.

Accordingly, [NAME] requests reconsideration of [HER] negative credible fear determination, or in the alternative, a re-interview with an Asylum Officer so that [SHE] can fully present and develop new facts that were not disclosed at the time of [HER] initial interview. In particular, [NAME] was unable to share details about [TOPIC]. [NAME] is now submitting new evidence in the form of a declaration. These new facts will demonstrate that [SHE] has a substantial and realistic possibility of succeeding on an application for asylum, withholding of removal, or relief under the Convention Against Torture ("CAT").

Specifically, [NAME] can demonstrate that [SHE] has been singled out for death threats and extortion by [GANG], a transnational criminal organization ("TCO"), and/or credibly fears future persecution due to [NEXUSES – E.G., (1) HER FAMILY RELATIONSHIP TO HER HUSBAND/DAUGHTER/FATHER/ETC., (2) HER INDIGENOUS RACE, (3) HER IMPUTED ANTI-GANG/FEMINIST POLITICAL OPINION, (4) HER RELIGION, (5) HER MEMBERSHIP IN THE PARTICULAR SOCIAL GROUP OF FEMALE BUSINESS OWNERS, (6) HER MEMBERSHIP IN THE PARTICULAR SOCIAL GROUP OF SINGLE

[NATIONALITY] FEMALE HEADS OF HOUSEHOLD, (7) HER MEMBERSHIP IN THE PARTICULAR SOCIAL GROUP OF [NATIONALITY] WOMEN]. [SHE] is at serious risk of being tortured with the participation, acquiescence or willful blindness of the [NATIONALITY] government. Given these facts, [NAME] has established a substantial and realistic possibility of success that [SHE] could win asylum, and reconsideration is warranted.

LEGAL STANDARD

In order to receive a determination that [SHE] has a credible fear of persecution or torture in [COUNTRY], [NAME] must show that there is a “significant possibility” that [SHE] will be able to establish eligibility for asylum under section 208 of the Immigration and Nationality Act (INA). See INA § 235(b)(1)(B)(v). The credible fear screening process required by section 235 of the INA is determined by regulations. When these regulations were implemented, the Department of Justice described the credible fear standard as “a low threshold of proof of potential entitlement to asylum.” 62 Fed. Reg. 10,312, 10,320 (Mar. 6, 1997).¹ Thereafter, the Court of Appeals for the D.C. Circuit similarly found that the showing required to meet the “substantial and realistic possibility of success” standard is lower than the “preponderance of the evidence standard.” *Holmes v. Amerex Rent-A-Car*, 180 F.3d 294, 297 (D.C. Cir. 1999) (internal citation omitted).

If there is disagreement among the United States Courts of Appeal as to the proper interpretation of a legal issue, or the claim otherwise raises an unresolved issue of law, and there is no conflicting Department of Homeland Security or Asylum Division policy or guidance on the issue, then generally the interpretation most favorable to the applicant is used when determining whether the applicant meets the credible fear standard—asylum officers may not disregard contrary circuit law, and may not limit their analysis to the law of the circuit where the individual is located during the credible fear process.²

ARGUMENT

In [HER] initial interview, [NAME] was unable to fully develop [HER] story because of [SUMMARIZE STRONGEST REASONS AND PROCEDURAL DEFICIENCIES]. Based on the new evidence provided, there is a substantial and realistic possibility of success that [NAME] will be able to establish that [SHE] is eligible for asylum, withholding of removal, and/or relief under CAT. Accordingly, to effectuate the purpose of the credible fear process, [NAME] should be given the opportunity to present these facts in a new credible fear interview. In conjunction with this request, [NAME] is submitting a declaration containing new facts. See Ex. A, Declaration of [NAME].

¹ See also U.S. Citizenship & Immigration Servs, RAIO, Asylum Div., *Asylum Officer Basic Training, Lesson Plan Overview* (Apr. 14, 2006).

² See U.S. Citizenship & Immigration Servs, RAIO, Asylum Div., *Officer Training Course: Credible Fear of Persecution and Torture Determinations* 17 (Feb. 13, 2017), available at <http://www.aila.org/infonet/raio-and-asylum-division-officer-training-course>; USCIS Guidance For Processing Reasonable Fear, Credible Fear, Asylum and Refugee Claims in Accordance with *Matter Of A-B-* (updated by email on Dec. 19, 2018), available at <https://uchastings.app.box.com/s/k99txxw746bg7wghirak8w7d86tq1njt/file/381907557596>.

I. The interview did not afford [NAME] a full chance to explain [HER] circumstances

Note: Lead with this section if you identify procedural irregularities in the negative CFI transcript that explain why the client was not able to present her case at her initial interview. In her declaration, she may also explain why she was able to share new information with her legal team or mental health professionals. See Chapter 6 and Appendix C.

If there is no evidence suggesting the AO or interpreter did not fully elicit information, lead with the strongest fact-based claim for asylum before addressing the negative credible fear finding. If the facts before the AO were particularly strong, you may argue that the AO applied the incorrect legal standard. If the facts before the AO fall into a new particular social group or protected ground because of intervening legal authority, you may want to first argue the new authority is sufficient to warrant reconsideration of the case on the facts in the transcript and/or new evidence included in the request.

a. The record of the credible fear interview shows clear communication errors on the part of the interviewing Asylum Officer.

The CFI record shows clear miscommunication between the Asylum Officer and [NAME]. Additionally, the CFI record shows that the Asylum Officer would cut off [NAME] when [SHE] was discussing issues that were essential to [HER] claim for asylum. The following excerpts of the CFI record are illustrative of the errors that occurred throughout the interview:

[INSERT EGREGIOUS EXAMPLES OF INEFFECTIVE QUESTIONING DURING THE INTERVIEW]

With evidence of these miscommunications and improper questioning techniques, the CFI record illustrates that the Asylum Officer hindered [NAME]'s ability to fully develop [HER] claim. Whatever the reason for the recurring errors and inconsistencies in the CFI record, they lead to one conclusion: [NAME] was not given a fair opportunity to present [HER] asylum claim. Based on these errors alone, [NAME]'s request for re-interview should be granted.

b. The Asylum Officer intimidated [NAME] and failed to address [NAME]'s confusion during [HER] interview.

The record clearly shows that [NAME] felt confused and intimidated during the interview. [NAME] could not understand the questions, and [SHE] did not know what [SHE] could say to the interviewer. Ex. A ¶ XX. For example, [NAME] did not know [X] when asked, and later in the interview, when asked whether [X], [SHE] responded by talking about [Y]. *Id.* ¶ XX; Transcript of Credible Fear Interview (“CFI”) at XX. The Asylum Officer responded [Z]. CFI at XX. At several additional points during the interview, [NAME] also gave answers that demonstrated that [SHE] was not able to express herself clearly in response to the questions the Asylum Officer had asked, but the Asylum Officer did not follow up on this confusion. *Id.* at XX. When asked whether [X], [NAME] responded: [Y]. *Id.* at XX.

Because of this confusion, [NAME] did not understand that [X] could be relevant for the purposes of qualifying for asylum. Ex. A ¶ XX. Despite clear instances of [X], the Asylum Officer never asked about related threats or violence. Such questions would have elicited the threats and harm that [SHE] now presents in [HER] declaration, but the interview instead focused only on [Y].

c. [NAME]'s previous interview was marred by serious interpretation problems that prevented [HER] from fully communicating [HER] fear of returning to [HER] home country.

[NAME]'s interview with the Asylum Officer was marred by serious interpretation problems. The interpreter and the Asylum Officer told [NAME] that [SHE] must only speak in short sentences and must never speak above the interpreter if the interpreter interrupted [HER]. [INSERT QUOTE RE: WHAT SHE WAS TOLD]. Throughout the hearing, the interpreter consistently interrupted [NAME] and asked [HER] to repeat herself. CFI at XX. These constant interruptions, coupled with the limitations the interpreter and Asylum Officer placed on [NAME], prevented [HER] from fully presenting [HER] story.

Further, [NAME] frequently could not hear the interpreter, which resulted in [HER] failing to understand what was being asked of [HER]. [INSERT QUOTE RE: HOW THE APPLICANT FELT SHE WAS UNABLE TO FULLY DEVELOP HER ASYLUM CLAIM DURING THE INITIAL INTERVIEW]. Accordingly, to effectuate the purpose of the credible fear process, which is to ensure access to a full hearing for all individuals who qualify for asylum, withholding of removal, and/or relief under the CAT, [NAME] should be given the opportunity to present these facts in a new interview.

d. The Asylum Officer failed to fully develop the record or ask appropriate follow-up questions

The Asylum Officer failed to elicit testimony from [NAME] that would have provided crucial information about [HER] membership in [THE PARTICULAR SOCIAL GROUP OF INDIGENOUS WOMEN]. As [NAME] recounted [HER] [TRAUMA/INCIDENT/ASSAULT], the Asylum Officer did not notice [HER] difficulty in articulating [HER] traumatic experiences. [NAME] had never been asked such questions, and thus [SHE] was extremely nervous and shaking. Ex. A ¶ XX.

In addition, the Asylum Officer did not adequately clarify when [NAME] seemed confused about questions regarding [HER] abuser. The officer ignored the cultural complexity of certain statements, [SUCH AS WHAT PHRASES LIKE "BEING HIS" WOULD ENTAIL, OR WHAT HARASSMENT INCLUDED]. CFI at XX. In fact, the Asylum Officer often truncated [NAME]'s explanation of the extent of [TRAUMA/ABUSE] by instructing [HER] to only briefly explain [HER] fears and only focusing on [THE SPECIFIC ABUSIVE ACTS SHE SUFFERED]. [NAME] believed that the brief questions required a simple yes or no response, and [SHE] did not know it was relevant to share more details about the persecution [SHE] endured on account of [HER] membership in a particular social group. Ex. A ¶ XX.

Moreover, the Asylum Officer never asked about factors that have been found to establish a [FAMILY-BASED] particular social group or a particular social group related to [HER] identity as an [INDIGENOUS WOMAN]. *See Matter of W-G-R-*, 26 I&N Dec. 208, 214 (BIA 2014) (articulating the social distinction requirement), *aff'd in part & vacated in part by Reyes v. Lynch*, 842 F.3d 1125 (9th Cir. 2016) (affirming that the BIA's articulation of the particularity and social distinction requirements for "membership in a particular social group" was reasonable).

In addition, when [NAME] expressed that [HER] abuser was a member of [GANG], the Asylum Officer did not ask follow-up questions about [HER] fear of [GANG], the connection between [GANG] and the perpetrator, or [HER] concern that there was nowhere [SHE] could move to escape [GANG]. CFI at XX. Nor did the Asylum Officer ask any questions about what dangers exist for [INDIGENOUS WOMEN] from [COUNTRY] who are [STALKED BY POWERFUL GANG MEMBERS OR FOR MEMBERS OF [NAME]'S FAMILY].

e. During the interview, the Asylum Officer failed to appropriately consider [NAME]'s mental condition.

Throughout the interview, the Asylum Officer failed to take into full account [NAME]'s trauma and mental state, which prevented [HER] from effectively communicating [HER] claim for asylum. [NAME] had recently experienced trauma due to [PERSECUTION SUFFERED BY HER OR BY A FAMILY MEMBER IN HER HOME COUNTRY]. The effects of this trauma prevented [NAME] from sharing all the details of [THE PERSECUTION] during the interview. [INSERT QUOTE FROM DECLARATION RE: APPLICATION'S STATE OF MIND DURING THE INTERVIEW (E.G. EXHIBITING TRAUMA-RELATED SYMPTOMS, WORRYING ABOUT HER CHILDREN, FEELINGS OF SHAME, GUILT, ETC.). IF THE AO WAS MALE, DEVELOP WHETHER THE APPLICANT WAS UNCOMFORTABLE DISCLOSING HER STORY TO HIM.]

Further, because the police had failed to protect [NAME]'s family, [SHE] operated under a general distrust of government authorities in [HER] home country. This distrust of the government authorities, coupled with [HER] lack of counsel who could explain the role of the Asylum Officer, understandably carried over to a distrust of United States government officials. Ex. A ¶ XX. The UNHCR notes that "[a] person who, because of his experiences, was in fear of the authorities in his own country may feel apprehensive vis-à-vis any authority. He may therefore be afraid to speak freely and give a full and accurate account of his case." U.N. High Comm'r for Refugees (UNHCR), *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status Under the 1951 Convention and 1967 Protocol Relating to the Status of Refugees*, ¶ 198 (Dec. 2011) (hereinafter "UNHCR Handbook"). This was the case for [NAME]. [HER] direct experiences with police in [HER] home country led [HER] to fear and mistrust government authorities.

Moreover, the State Department's Country Report for [COUNTRY] highlights [QUOTE FROM RELEVANT REPORT RE: HUMAN RIGHTS PROBLEMS SUCH AS "WIDESPREAD CORRUPTION" AND "HIGH LEVELS OF IMPUNITY"]. For these reasons, although the Asylum Officer read [NAME] a brief and confusing statement about the confidentiality of the interview, [SHE] nonetheless feared that [HER PERSECUTOR] might

learn of the information [SHE] disclosed to the Asylum Officer, thereby putting [HER] and [HER] family in further danger. Ex. A ¶ XX.

II. [NAME] presents new facts and should be re-interviewed so that [SHE] can fully present [HER] case.

Note: Develop the record from the interview transcript and the declaration. Be sure to include all elements of the claim: past persecution and fear of future persecution on account of protected ground(s) and any reasons why the applicant is unable to relocate or seek assistance from government actors. Cite to exhibits where they support the client's narrative. Highlight changed circumstances and new threats, if any, that she has received since the interview. Emphasize parts of her story that were not mentioned, or not fully brought out during the CFI.

See the sample factual scenario below, which can serve as a guide. Most frequently this section is written as a single section with a chronological retelling of the persecution the applicant suffered interspersed with discussion of the shortcomings of the CFI.

a. [NAME]'s declaration provides new, previously unavailable facts about the [THREATS/HARM] [SHE] faced in [COUNTRY].

In the attached declaration, [NAME] provides new facts about threats [SHE] received from gang members, being raped repeatedly by [HER] former employer, and the threats and harm on [HER], [HER] child, and [HER] family members caused by [TCO].

The [TCO] has repeatedly threatened [NAME]'s family, and [SHE] and [HER] child have a well-founded fear that they will be raped and killed by [TCO]. See Ex. A ¶ X. [TCO] is known for targeting and raping teenage girls like [NAME]'s child, and they murdered [HER] [FAMILY MEMBER] when he tried to protect her. *Id.* ¶ XX. The [TCO] also murdered a similarly situated indigenous women by driving [HER] to a deserted place and shooting [HER] in the head. *Id.* ¶ XX.

[NAME] is a victim of rape and has received numerous threats from [GANG] and [TCO]. [NAME] is afraid to return to [COUNTRY] and cannot live in another part of the country because [TCO] is a large operation with contacts throughout the country and [NAME] and [HER] child are easily identifiable as indigenous. See Ex. A ¶ XX; *see also* Ex. XX at XX. [NAME] has a distinct accent, skin color, and physical features that identify [HER] as an indigenous woman from a certain region in [COUNTRY]. Ex. A ¶ XX. [NAME] and [HER] child will also face discrimination and be treated poorly in other parts of [COUNTRY], including in other indigenous communities. Ex. XX at XX.

b. New country conditions reports show that the police do not protect [INDIGEOUNS WOMEN] in [COUNTRY] who are targeted for persecution.

The [COUNTRY] police are unable and unwilling to protect [NAME] and [HER] child. The police do not take complaints from indigenous women seriously, and they are known to

report complaints back to the perpetrators, who would retaliate and cause additional harm to [NAME] and [HER] child. Ex. XX at XX.

III. There is a “substantial and realistic possibility” that [NAME] will establish eligibility for asylum, withholding of removal, and relief under the CAT.

- a. [NAME] has suffered past persecution as a victim of rape and subject of threats of physical harm against [HER] and [HER] child. [SHE] has also suffered persecution in the form of extortion demands by gangs.

Rape has long been recognized as persecutory and can even constitute torture. See, e.g., *Zubeda v. Ashcroft*, 333 F.3d 463, 472–73 (3d Cir. 2003) (highlighting the psychologically “scarring effects” of rape and noting that rape has been “recognized under the law of nations as torture” and “can constitute sufficient persecution to support a claim for asylum”); *Matter of D-V*, 21 I&N Dec. 77 (BIA 1993) (finding that a Haitian asylum seeker who was gang raped had suffered past persecution and thus had a well-founded fear of persecution on account of her political opinion and religion); *Shoafera v. INS*, 228 F.3d 1070, 1074 (9th Cir. 2000) (asserting that “it is clear that rape or sexual assault ‘may constitute persecution’” (internal citation omitted)); *Angoucheva v. INS*, 106 F.3d 781 (7th Cir. 1997) (remanding the applicant’s claim in light of evidence that the immigration judge inadequately considered the applicant’s claim of well-founded fear of persecution based on a past rape); *Lopez-Galarza v. INS*, 99 F.3d 954, 959–60 (9th Cir. 1996) (asserting that rape or sexual assault may serve as the basis for a finding of past persecution, which, in turn, establishes an applicant’s well-founded fear of persecution).

Credible threats to invoke grave physical harm can also constitute persecution. See, e.g., *Stanojkova v. Holder*, 645 F.3d 943, 948 (7th Cir. 2011) (providing examples of threats and other nonphysical harm that may constitute persecution). [NAME] has suffered persecution over a period longer than nine months, during which [SHE] and [HER] child’s lives were threatened at gunpoint as members of the gang demanded money from [HER] on numerous occasions. Ex. A ¶ XX. At least two circuit courts have held that extortion plus the threat of violence can constitute persecution. See *Ayala v. Sessions*, 855 F.3d 1012, 1015 (9th Cir. 2016) (holding that “[t]he IJ committed legal error by holding that extortion could not constitute persecution”); see also *Oliva v. Lynch*, 807 F.3d 53, 59 (4th Cir. 2015) (“Extortion itself can constitute persecution, even if the targeted individual will be physically harmed only upon failure to pay.”). If extortion occurs on account of a protected ground, an individual qualifies for a grant of asylum. See *Oliva*, 807 F.3d at 59 (“Recognizing that extortion can be a form of persecution, the appropriate inquiry is thus whether the extortion occurred on account of protected grounds.”).

Furthermore, the murder of [NAME’s] [FAMILY MEMBER] and the [ASSAULT/ABUSE] [HER] child suffered are also relevant to [NAME]’s own fear of persecution. See, e.g., *Mashiri v. Ashcroft*, 383 F.3d 1112, 1119–21 (9th Cir. 2004) (finding that “a death threat, violence against family members, vandalism, economic harm, and emotional trauma” amounted to past persecution and also asserting generally that “threats may be compelling evidence of past persecution”); *Baballah v. Ashcroft*, 367 F.3d 1067, 1074–75 (9th Cir. 2003) (“Violence directed against an applicant’s family members provides support for a claim of persecution and in some instances is sufficient to establish persecution because such

evidence ‘may well show that [an applicant’s] fear of persecution . . . is well-founded.’” (quoting UNHCR Handbook at ¶ 43)).

This past persecution alone creates a substantial and realistic possibility that [NAME] will prevail at a full merits hearing. Moreover, because [NAME] can establish [SHE] has suffered past persecution, [SHE] is “presumed to have a well-founded fear of persecution on the basis of the original claim.” 8 C.F.R. § 1208.13(b)(1).

b. [NAME] reasonably fears persecution on account of [PSG, E.G.: HER RELATIONSHIP TO FAMILY MEMBER, IDENTITY AS AN INDIGENOUS WOMAN]

When assessing [NAME]’s claim of a well-founded fear of persecution, the Asylum Officer should have considered whether [NAME] can demonstrate in a full asylum hearing that [SHE] and [HER] child were targeted for persecution on the basis of [HER] relationship to a family member as well as on the basis of [HER] indigenous [GROUP NAME] ethnicity.

Indigenous ethnicity constitutes a separate protected ground under U.S. asylum law. *See, e.g. Ordonez-Quino v. Holder*, 760 F.3d 80, 93 (1st Cir. 2014) (remanding an asylum denial to the BIA to consider whether the government had sufficiently rebutted the presumption of the applicant’s well-founded fear of persecution in light of country conditions demonstrating persistent discrimination and violence against Mayan Quiché Guatemalans).

The Board of Immigration Appeals and appellate courts have also established that individuals facing persecution due to family relationships, such as [NAME]’s relation to [HER] [FAMILY MEMBER], are members of a particular social group. *See Crespin-Valladares v. Holder*, 632 F.3d 117, 126 (4th Cir. 2011) (holding that a Salvadoran asylum applicant targeted by a gang due to his uncle’s actions was a member of a particular social group); *Torres v. Mukasey*, 551 F.3d 616, 629 (7th Cir. 2008) (emphasizing that family is a “cognizable social group within the meaning of immigration law”); *Ravindran v. INS*, 976 F.2d 754, 761 n.5 (1st Cir. 1992) (“A prototypical example of a ‘particular social group’ would consist of the immediate members of a certain family, the family being a focus of fundamental affiliational concerns and common interests for most people.” (quoting *Sanchez-Trujillo v. INS*, 801 F.2d 1571, 1576 (9th Cir. 1986)); *Matter of L-E-A-*, 27 I&N Dec. 40 (BIA 2017).

c. [NAME] merits a grant of humanitarian asylum

Even in the event that [NAME] is determined to lack a well-founded fear of future persecution on account of a protected ground, [SHE] will be eligible for a grant of humanitarian asylum based on [HER] past persecution and the likelihood that [SHE] will face other serious harm if returned to [COUNTRY]. *See* 8 C.F.R. § 1208.13(b)(1)(iii); *Matter of L-S-*, 25 I&N Dec. 705, 710 (BIA 2012) (explaining that humanitarian asylum may be granted due to “compelling reasons” associated with the severity of past persecution or the “reasonable possibility” that an applicant who establishes past persecution will face “other serious harm” if returned to his or her country of origin).

An analysis of “other serious harm” can include both general country conditions regarding gang violence and economic deprivation, as well as the particular challenges [NAME] faces as a single mother without male protection and as a poor woman with no livelihood and a history of abuse and persecution in [COUNTRY]. *See Matter of L-S-*, 25 I&N Dec. at 714 (“[A]djudicators considering ‘other serious harm’ should be cognizant of conditions in the applicant’s country of return and should pay particular attention to major problems that large segments of the population face or conditions that might not significantly harm others but that could severely affect the applicant.”).

d. [NAME] also qualifies for relief under the CAT, as [SHE] is more likely than not to face torture upon removal to [COUNTRY].

[NAME] would likely face torture in [COUNTRY], where public officials either acquiesce in or consent to the threats that the [GANG] make against [NAME]. *See 8 C.F.R. § 208.18(a)* (establishing the elements of torture under U.S. law, which incorporates the definition of torture under the CAT). The well-documented country conditions in [COUNTRY] support a finding that the public officials are either complicit in gang-related activity - [INSERT EXAMPLE, SUCH AS THE GANGS CONDUCT CRIMINAL ACTIVITIES FROM WITHIN PRISONS] - or have a willful blindness toward the killings and torture perpetrated by the gang. *See Ex. XX at XX.*

By fleeing [COUNTRY] on account of gang threats, [NAME] actively defied the gang. [SHE] will be targeted upon [HER] return for this act. [SHE] will also be targeted for continued extortion and because of [HER] status as a single [COUNTRY] woman. These threats to [HER] life will cause severe pain and suffering to [NAME]. The [COUNTRY] government has already ignored [NAME]’s threats and will likely acquiesce in this harm. Therefore, [NAME] also qualifies for relief under the CAT.

CONCLUSION

[NAME] has not had an opportunity to fully present [HER] past persecution and fear of future persecution by [HER ABUSER] and by [GANG MEMBERS] to an Asylum Officer, and for that reason alone [SHE] should be given a new interview. Based on these facts, [NAME] and [CHILD’S NAME] have suffered past persecution and hold a well-founded fear of future persecution, and thus have a significant possibility of prevailing on their asylum claim, withholding of removal, or protection under the Convention Against Torture.

For the reasons, [NAME] respectfully requests that [SHE] be given a new credible fear interview.

Thank you for your consideration.

Sincerely,

[ATTORNEY SIGNATURE]

[ATTORNEY SIGNATURE BLOCK]

EXHIBITS

Exhibit A: Declaration of Applicant

Exhibit XX: Expert Declaration, if applicable

Exhibit XX: Declaration of Family Members or Other Witnesses, if available

Exhibit XX: Psych Evaluation of Applicant, if available

Exhibit XX: Targeted country conditions information, if available