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STANDARD OF REVIEW

We review for substantial evidence a ;c.ps6 REVIEminationW

that the two rapists were members of a Marxist guerrilla organization, the New People's Army, and that the attack was on account of an imputed political opinion arising from her father's position as a "Municipal Counselor" in their region of the Philippines:

My father was employed by the government in the

A. That is what is taking place there and there is a lot of things like that.

Q. When you say there are a lot of things like that, what are you talking about?

A. It was not only us they had raped. There were a lot of people also who were raped.

* * * *

Q. Now, why do you think you were singled out for rape? Was it just two women walking alone back from the market?

A. That is their job whenever dusk appears or comes they harass people.

Q. Okay, did these people do anything other than say they were going to rape you?

A. They would kill us if we would report this to the authorities.

Q. It was just a random act of violence?

A. Maybe.

Q. Okay, and you said that other people were also being raped and threatened?

A. Yes, there are occasions.

(Emphasis added.)

Felicitas also testified that she did not know the rapists before the attack, that they did not identify themselves in any way during the attack, and that they were "people from the

mountains," not from the town in which she lived. She further testified that she saw the rapists once (or not at all) after the

could not demonstrate that they would suffer "extreme hardship" if they were deported, a showing that is required under 8 U.S.C. § 1229(b). For that reason, the IJ declined to exercise his discretion to grant a suspension of deportation.

On review, the BIA affirmed the IJ's decision and adopted his findings and reasoning. The BIA granted voluntary departure and dismissed the appeal.

This timely petition for review followed.

DISCUSSION

A. Jurisdiction

B. Asylum

1. Past Persecution

sion against their neighbors who may or may not have divergent . . . political views." Sangha v. INS, 103 F.3d 1482, 1487 (9th Cir. 1997).

What is at issue is a narrow question: Whether, considering the whole record, the IJ's finding that the evidence failed to establish a nexus between the rape and a protected ground is supported by substantial evidence. We answer that question

members of her family, because her father worked fo N

court has found that rapes occurred "on account of" an imputed political opinion, the evidence was clear that the rapists (1) knew the specific identity of their victims; and (2) imputed political opinions to those victims. For example, in Lopez-Galarza, the victim's neighbor accused her of "supporting the counter-revolutionary contras"; as a result, she was arrested, imprisoned, and raped. 99 F.3d at 957. In Lazo-Majano v. INS, 813 F.2d 1432, 1433 (9th Cir. 1987), overruled on other grounds by Fisher v. INS

Q: Was any mention of your father made during the rape?

Both before and after that question, Felicitas gave detailed accounts of the rape in response to open-ended questions. She

F. Suspension of Deportation

The Attorney General has discretion to grant an alien's application for suspension of deportation if the alien satisfies the "continuous physical presence," "good moral charac-", "es
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jurisdiction to review the decision regarding suspension of deportation. Therefore, the petition for review is

DENIED in part and DISMISSED in part.

PREGERSON, Circuit Judge, dissenting:

The inquiry in this case is whether the Immigration Judge's decision is supported by substantial evidence. In my opinion, it is not. The statements in Felicitas Ochave's asylum application, combined with her credible testimony at the hearing, compel the opposite conclusion: that Felicitas Ochave has established eligibility for asylum based on past persecution.¹

do so. This conclusion ignores two critical facts. First, Feli-

Counsel: Did you tell anyone about the rape?

IJ: Strike the question and strike the answer. It's a leading question. Rephrase

Counsel: Did you think that these two men [who raped you] were part of the guerrillas?

IJ: Strike the question. It's a leading question. It's a very critical question. Rephrase the question.

Counsel: Did you have any idea who these two men [who raped you] were?

IJ

tion provided in her asylum application." At the hearing, he had the opportunity to interrogate, examine, and cross-examine Felicitas to probe the assertions in her application regarding the nexus between her rape and her father's political beliefs. The Immigration Judge did not take that opportunity. What is more, he blocked Felicitas's counsel's efforts to