UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 11th day of September, two thousand twenty-six.

PRESENT: RAYMOND J. LOHIER, JR.,
Chief Judge,
DENNY CHIN,
WILLIAM J. NARDINI,
Circuit Judges.

JIANZHONG QIN, YANWEN QIN,
HAIDI LI,

Petitioners,

v. No. 24-19-ag

TODD BLANCHE, UNITED STATES
ATTORNEY GENERAL,

Respondent.

FOR PETITIONERS:	Aleksander Boleslaw Milch, The Kasen Law Firm, PLLC, Flushing, NY
FOR RESPONDENT:	Brian M. Boynton, Principal Deputy Assistant Attorney General, Edward E. Wiggins, Senior Litigation Counsel, Stephen Finn, Senior Trial Attorney, Office of Immigration Litigation, United States Department of Justice, Washington, DC

UPON DUE CONSIDERATION of this petition for review of a Board of Immigration Appeals (BIA) decision, it is hereby ORDERED, ADJUDGED, AND DECREED that the petition for review is GRANTED IN PART and DENIED IN PART.

Petitioners Jianzhong Qin, his wife, and their daughter, natives and citizens of the People's Republic of China, seek review of a December 8, 2023 BIA decision affirming an August 23, 2019 decision of an Immigration Judge (IJ) denying asylum, withholding of removal, and relief under the Convention Against Torture (CAT). *In re Jianzhong Qin, et al.*, Nos. A202 036 892/893, A087 966 224 (B.I.A. Dec. 8, 2023), *aff'g* Nos. A202 036 892/893, A087 966 224 (Immig. Ct. N.Y.C. Aug. 23, 2019). We assume the parties' familiarity with the

underlying facts and the record of prior proceedings, to which we refer only as necessary to explain our decision.

We review the IJ's decision as supplemented by the BIA. *See Yan Chen v. Gonzales*, 417 F.3d 268, 271 (2d Cir. 2005). We review "the entirety of the agency's conclusions—both the underlying factual findings and the application of the [Immigration and Nationality Act] to those findings—for substantial evidence," and questions of law de novo. *Urias-Orellana v. Bondi*, 607 U.S. 537, 543 n.1, 545 (2026). "[T]he administrative findings of fact are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary." 8 U.S.C. § 1252(b)(4)(B).

I. Asylum & Withholding of Removal

We first address the BIA's affirmance of the IJ's denial of asylum and withholding of removal. An applicant for asylum and withholding of removal has the burden to establish past persecution or a well-founded fear or likelihood of future persecution on the basis of a protected category, including political opinion. *See* 8 U.S.C. §§ 1158(b)(1)(B)(i), 1231(b)(3)(A); 8 C.F.R. §§ 1208.13(b), 1208.16(b). "[P]ersecution is an extreme concept that does not include every sort of treatment our society regards as offensive." *Mei Fun Wong v. Holder*, 633 F.3d

64, 72 (2d Cir. 2011) (quotation marks omitted). "[M]ere harassment" is not persecution, and the difference between harassment and persecution is "necessarily one of degree" and dependent upon context. *Ivanishvili v. U.S. Dep't of Just.*, 433 F.3d 332, 341 (2d Cir. 2006).

Qin's asylum and withholding claims arise from his opposition to the Chinese government's demolition of his apartment building without just compensation. Because the IJ concluded that Qin testified credibly, we take the facts principally from Qin's testimony. In December 2010 Qin joined approximately thirty other residents in protesting at government offices for higher compensation, and local officials identified him as a leader of the protests. The following year Qin and other residents again protested and formed a human chain around their apartment complex when demolition equipment and police officers arrived. Police officers forcibly dispersed the protesters, pushing Qin's head to the ground and injuring his right thumb. Qin and eight other protesters were arrested by local authorities for obstruction of government affairs, and Qin was detained for five days. Qin testified that he did not receive any food or water for the first two days of his detention, and that officers beat him with an electric baton after he refused to sign a statement promising not to interfere with

government activities. He was released, but authorities warned him that he could be arrested again if he continued to resist the demolition. Qin testified that, after this incident, Chinese authorities monitored his movements, and that his thumb was permanently injured, preventing him from working.

The IJ concluded that Qin's mistreatment arose from his "last ditch effort to . . . prevent the demolition" and therefore did not constitute persecution on account of a protected ground. Cert. Admin. R. 79. While the IJ considered Qin's permanent thumb injury, arrest, and five-day detention, the IJ did not meaningfully address Qin's professed political opposition to the Chinese government, his beating for refusing to sign the statement promising not to interfere with government activities, or country-conditions evidence concerning political protesters. Nor did the IJ or the BIA analyze his participation in the December 2010 protest, his identification by authorities as a protest leader, or his deprivation of food and water while detained. The BIA agreed with the IJ that the conduct Qin suffered, "even in the aggregate," did not amount to persecution. Cert. Admin. R. 4.

Although we review the agency's persecution determination for substantial evidence, *Urias-Orellana*, 607 U.S. at 545, we continue to "require a

certain minimum level of analysis" to make such review "meaningful," *Poradisova v. Gonzales*, 420 F.3d 70, 77 (2d Cir. 2005); *see also Anderson v. McElroy*, 953 F.2d 803, 806 (2d Cir. 1992) ("[W]e cannot assume that the BIA considered factors that it failed to mention in its decision." (quotation marks omitted)). "[A] claim of political persecution cannot be evaluated in a vacuum . . . without reference to the relevant circumstances in which the claim arises." *Castro v. Holder*, 597 F.3d 93, 106 (2d Cir. 2010) (collecting cases). Here, the agency did not provide sufficient analysis of material evidence bearing on Qin's political persecution claim, and we therefore cannot meaningfully review its determination for substantial evidence.

The record also contains evidence bearing on whether Qin's mistreatment occurred because of an actual or imputed political opinion. "[A]n applicant may establish persecution on account of" an imputed political opinion "by showing that the persecutors perceived the applicant to have a political opinion and acted because of it." *Manzur v. U.S. Dep't of Homeland Sec.*, 494 F.3d 281, 295 (2d Cir. 2007) (quotation marks omitted). "[O]pposition to endemic corruption or extortion . . . may have a political dimension when it transcends mere self-protection and represents a challenge to the legitimacy or authority of the ruling

regime." *Yueqing Zhang v. Gonzales*, 426 F.3d 540, 547–48 (2d Cir. 2005). Qin organized with other residents to protest the government's demolition of their homes and seek greater compensation, and authorities identified him as a leader of those protests. He further testified that police officials sought to compel him to sign a statement promising that he would not interfere with government activities, and that they beat him when he refused. Qin also provided country-conditions evidence that reports the government's harsh treatment of political dissidents and instances of violent property-related disputes arising out of government collusion with property developers.

Though the BIA reads into the IJ's decision a finding that Qin "did not meet his burden of establishing the requisite nexus between the claimed harm and a statutory protected ground," Cert. Admin. R. 5, the IJ did not assess the range of motives the police had for mistreating Qin in detention in a way that permits us to meaningfully review the agency's persecution determination. "[W]e have held that the persecutor's motive need not be *solely* to overcome the applicant's political opinion." *Shuqiang Tian v. Bondi*, 130 F.4th 284, 289 (2d Cir. 2025) (quotation marks omitted); *see Acharya v. Holder*, 761 F.3d 289, 298–300 (2d Cir. 2014); *Yueqing Zhang*, 426 F.3d at 548. Evidence of the "context of [Qin's]

protests" and of "the government's retaliation for that expression" was relevant not only to the nexus between Qin's harm and his professed political opinion, but also to whether his cumulative mistreatment constituted persecution. *Shuquiang Tian*, 130 F.4th at 289; *see Beskovic v. Gonzales*, 467 F.3d 223, 226–27 (2d Cir. 2006). We therefore cannot meaningfully review the agency's determination on the record before us. *See Beskovic*, 467 F.3d at 226–27; *Poradisova*, 420 F.3d at 77.

Because we are unable to determine whether the record compels a finding that Qin suffered persecution or that his mistreatment occurred on account of an actual or imputed political opinion, 8 U.S.C. § 1252(b)(4)(B); *see Urias-Orellana*, 607 U.S. at 545, we remand for the agency to consider in the first instance whether Qin's treatment, viewed cumulatively and in context, constituted persecution and, if so, whether an actual or imputed political opinion was "at least one central reason" for that persecution, *see Acharya*, 761 F.3d at 297–300 (quoting 8 U.S.C. § 1158(b)(1)(B)(i)). Should the agency find on remand that the response to Qin's activity constituted past persecution on account of political opinion, it should also address Qin's claim for humanitarian asylum. *See Kone v. Holder*, 596 F.3d 141, 153 (2d Cir. 2010) ("[H]umanitarian asylum's foundational

requirement [is] that the applicant must [him]self establish past persecution and [him]self be a refugee.").

II. CAT Relief

We turn next to the BIA's affirmance of the IJ's denial of CAT protection. A CAT applicant has the burden to show that he would "more likely than not . . . be tortured if removed to the proposed country of removal." 8 C.F.R. § 1208.16(c)(2). Torture is "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted . . . by, or at the instigation of, or with the consent or acquiescence of, a public official acting in an official capacity or other person acting in an official capacity." *Id.* § 1208.18(a)(1).

We conclude that substantial evidence supports the agency's denial of CAT relief. The record reflects that Chinese authorities monitored Qin and warned him not to cause problems when he returned to China. It also shows country conditions of surveillance and persecution of political dissidents. But this general evidence does not show that Qin is "more likely than not" to be tortured if he is removed to China. Qin was not harmed in the two years following the demolition or when he briefly returned to China. *See Chun Gao v. Gonzales*, 424 F.3d 122, 128–29 (2d Cir. 2005) (a CAT claimant must show "that

there is greater than a fifty percent chance . . . that he will be tortured upon return to his . . . country of origin" (quotation marks omitted)). And Qin did not allege that he would again engage in similar protests. *See Jian Hui Shao v. Mukasey*, 546 F.3d 138, 157–58 (2d Cir. 2008) ("[W]hen a petitioner bears the burden of proof, his failure to adduce evidence can itself constitute the 'substantial evidence' necessary to support the agency's challenged decision."). The record therefore does not compel a finding that Qin is more likely than not to be tortured upon return to China.

CONCLUSION

We have considered Qin's remaining arguments and conclude that they are without merit. For the foregoing reasons, the petition for review is GRANTED IN PART and REMANDED as to asylum and withholding of removal and DENIED IN PART as to CAT relief. All pending motions and applications are DENIED and stays VACATED.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court