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CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NOVA INDRANA TJIE,

Petitioner,

v.

MICHAEL B. MUKASEY,
United States Attorney General,

Respondent.

No. 04-73135

Agency No. A78-667-855

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted October 22, 2007**

Before: B. FLETCHER, WARDLAW and IKUTA, Circuit Judges.

Nova Indrana Tjie, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals' ("BIA") decision summarily affirming an

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Immigration Judge's ("IJ") denial of her application for asylum and withholding of removal, and request for relief under the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence and will uphold the IJ's decision unless the evidence compels a contrary conclusion. *INS v. Elias-Zacarias*, 502 U.S. 478, 481, 483-84 (1992). We deny the petition in part, grant in part, and remand.

In his decision, the IJ denied Tjie's asylum application because he found that the discrimination and harassment she suffered did not rise to the level of persecution, and because country conditions in Indonesia had changed substantially, defeating her claim of a well-founded fear of future persecution. The IJ discussed the question of whether Indonesian women of Chinese descent are a protected group, but specifically left this determination to the BIA. The BIA summarily affirmed, leaving the issue unresolved.

Because neither the IJ nor the BIA addressed this question or the question of Tjie's individualized risk, we remand so that a determination of whether Tjie has met the requirements for a well-founded fear of future persecution can be made by the agency. *See Sael v. Ashcroft*, 386 F.3d 922, 924-25 (9th Cir. 2004).

Tjie failed to establish a CAT claim because she did not show that it was more likely than not that she would be tortured if she returned to Indonesia. *See*

Nahrvani v. Gonzales, 399 F.3d 1148, 1154 (9th Cir. 2005). We therefore deny the petition as to the CAT claim.

Accordingly, we deny the petition in part, grant in part, and remand for further proceedings consistent with this disposition. *See INS v. Ventura*, 537 U.S. 12, 16 (2002) (per curiam).

PETITION FOR REVIEW DENIED in part; GRANTED in part and REMANDED.