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The CEDAW, Convention for the Elimination of Discrimination Against Women is an International Law Document which can be used to litigate cases in which bias towards women is exhibited by one of the federal agencies. Discrimination Against Women comes in many overt and subtle forms. As to the recent liberalization of rules regarding homosexuals and same sex relationships, it must be noted that it has always been different to be a gay woman than the experience of male homosexuals.

Lesbians hesitate to "come out" for a number of reasons. Already facing an uphill struggle to validate oneself as a professional or an artist in a male-dominated society, a lesbian often hesitates to pronounce her sexuality in the understanding that that will serve to further undermine her accomplishments and credentials. In so identifying herself, she loses the possibility of advancement in many types of careers, the respect of her peers, the support of her family and the loyalty of her children, if she has any. Although the situation has vastly improved in the last 10 years, not every lesbian has the courage to face these challenges which still exist.

Also, in any culture, Rape is a matter of shame. Many women around the world are raped in various scenarios, either as prisoners of war, in domestic situations or by the police in their own country. Therefore the rape may have been kept a secret for a time before the matter comes before the immigration judge. Often the attorney is the first to hear about the rape, in the context of writing up the asylum declaration. All too often, the judges find that since the rape was not reported to the police in the home country, the female respondent is not credible.

The Convention Against Torture, which the U.S. has ratified and implemented, states that torture is an extreme form of physical and or mental punishment or treatment. An important component of the definition of torture is that the torture is inflicted on the victim with the purpose of destroying the individual's personality. It is this extreme degradation that should be appreciated by the court. All too often what results instead is a finding of incredibility.

To order to get relief under the Convention Against Torture, the respondent must show that the perpetrator was either the government of her home country or that the government acquiesced to the torture. In a recent 9th Circuit decision, Tapia- Madrigal, (cite) the Court found that one need not prove the governmental agency as a whole acquiesced. It is sufficient if one officer turned a blind eye or was somehow involved.

Convention Against Torture relief requires governmental participation and/or acquiescence but persecution on account of one the five statutory grounds is not necessary to prove. Therefore, it is not required to prove why the woman was raped or the motive of the rapist(s) in the context of CAT. This becomes useful in an asylum/withholding/CAT case when the woman may be an innocent victim who really did not have a political opinion.

In the case of asylum, often women are raped on account of the political opinions of their husbands or sons. This is imputed political opinion and one must prove the opinions of the family member.

As far as Domestic Violence is concerned, often the violence against the woman has occurred many years before the hearing. The Immigration Judges have often found that although the woman suffered an extreme form of violence, she no longer faces any danger because now that she is older and has been out of the country for many years, it is not likely that the perpetrator would still be interested in her.

Also in one case, the Court of Appeals has found that although women, mother and daughter, were both raped within each other's sight, that the rape was not account of a protected ground and was not perpetrated by the government.

So, although great strides have been made in litigating cases for women, enormous hurdles remain for women and their attorneys to overcome.

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