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**When Charity Doesn't Start at Home:
The Torture Victims Relief Act and
Female Inmates in the U.S.**



Author M. Angela Buenaventura

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When Charity Doesn't Start at Home: The Torture Victims Relief Act and Female Inmates in the U.S.

By Maria Angela Buenaventura

NAWL has established the annual Selma Moidel Smith Law Student Writing Competition to encourage and reward original law student writing on issues concerning women and the law. This is the first year of the competition and we were gratified to receive many superb entries. The winning essay is by recent Northwestern University School of Law graduate M. Angela Buenaventura. A biography of Buenaventura is at the conclusion of the article.

Selma Moidel Smith, in whose honor the Competition is named, has been an active member of NAWL since 1944. Smith is the author of NAWL's Centennial History (1999), and recently received NAWL's Lifetime of Service Award. She is a past Western Region Director, State Delegate from California, and chair of numerous NAWL committees. Smith served two terms as president of the Women Lawyers Association of Los Angeles, and was recently named their first and only Honorary Life Member. She was also president of the Los Angeles Business Women's Council. In the ABA Senior Lawyers Division, Smith was appointed the chair of the Editorial Board of Experience magazine (the first woman to hold that position) and was elected to the governing Council for four years, also serving as chair of several committees and as NAWL's Liaison to the Division. Smith is a member of the Board of Directors of the California Supreme Court Historical Society. She was president, and also a Charter Member, of the National Board of the Medical College of Pennsylvania, which recently honored her at the Board's 50th anniversary.

Smith's career as a general civil practitioner and litigator are recognized in the first and subsequent editions of Who's Who in American Law and Who's Who of American Women, and also in Who's Who in America, among others. Her articles on the history of women lawyers have been published in the Women Lawyers Journal

and Experience magazine, and have been posted online by the Stanford Women's Legal History Biography Project (together with her own biography). Her original research includes the discovery of the first two women members of the ABA (Mary Grossman and Mary Lathrop), both of whom were vice presidents of NAWL.

She is also a composer. Many of her 100 piano and instrumental works have been performed by orchestras and at the National Museum of Women in the Arts. She is listed in the International Encyclopedia of Women Composers.

I. Introduction

The United States government funds over 200 centers, both at home and abroad, to treat victims of torture through the Torture Victims Relief Act (TVRA).¹ Although TVRA funds have been extremely beneficial to the treatment of torture victims and the prevention of torture, the fact that the U.S. government funds these centers has negative implications for domestic victims of torture.

Under the TVRA definition of torture, women who are raped in U.S. prisons qualify as victims of torture.² However, with respect to torture treatment centers, the provision of treatment and services to female inmates who have been raped in U.S. prisons would mean recognizing that torture occurs within the U.S. Thus, because these torture treatment centers rely so heavily on federal funding, they make a political decision to refrain from treating these women. This political decision is very unfortunate, given the fact that treatment options for survivors of prison rape are severely lacking.

In this paper, I will discuss the conflict between political constraints on TVRA-funded centers and the needs of female inmates who have survived torture. In Part II of this paper, I will discuss well-documented cases of rape in women's prisons and why such harms qualify as torture under the TVRA. In Part III, I will outline the provisions of the TVRA and discuss the many

the term in section 2340(1) of title 18, United States Code, and includes the use of rape and other forms of sexual violence by a person acting under the color of law upon another person under his custody or physical control.”); 18 U.S.C. 2340(1).

⁵⁹ 3 Eur Ct HR 300 at P 83 (1997).

⁶⁰ Cheryl Bell, Martha Coven, John P. Cronan, Christian A. Garza, Janet Guggemos, Laura Storto, *Rape and Sexual Misconduct in the Prison System: Analyzing America’s Most “Open” Secret*, 18 Yale L. & Pol’y Rev. 195, 202 (1999).

⁶¹ Deposition of Gladys Wilson at 206, lines 1-25; 207, lines 1-8; 208, lines 14-22; 209, lines 9-12, 18-15; 210, lines 1-25; 211, lines 1-4, 8-11, *Everson v. Mich. Dep’t of Corr.*, No. 00-73133 (E.D. Mich Feb. 23, 2001).

⁶² Spevacek Interview, *supra* note 46.

⁶³ Human Rights Watch, *Nowhere to Hide*, *supra* note 3.

⁶⁴ Smith, *supra* note 9, at 288.

⁶⁵ *Id.*

⁶⁶ Lawrence A. Greenfeld & Tracy Snell, Bureau of Justice Statistics, U.S. Dept of Justice, *Special Report: Women Offenders 1* (2000).

⁶⁷ Amnesty International, *Not Part of My sentence*, *supra* note 3.

⁶⁸ Johnson Testimony II, *supra* note 29.

⁶⁹ Amnesty International, *Not Part of My sentence*, *supra* note 3.

⁷⁰ Human rights Watch, *All to Familiar*, *supra* note 3.

⁷¹ *Regan v. Taxation with Representation*, 461 U.S. 540 (1983).

⁷² *Id.*



M. Angela Buenaventura graduated from the Northwestern University School of Law in May 2006.

While at Northwestern, Angela was an Articles Editor for the Northwestern University Journal of Technology and Intellectual Property. Angela was also a clinical student at the Children and Family Justice Center at Northwestern and a legal intern at the Midwest Immigrant and Human Rights Center. Beginning in the Fall of 2006, Angela will be an associate at Bryan Cave’s Chicago office.

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