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Good afternoon. My name is Mark silver. I'm a forensic evaluator. I've undertaken about 2000 cases at this point for immigration lawyers predominantly in the northeast, but also throughout the United States, Texas, Florida, California and Midwest, just about everywhere. I've been working here since 2002. And today's talk is going to be sexual orientation, asylum petitions, challenges in forensic, psychosocial immigration evaluations. Just before I start, I always tell people, rather than just have something that's very theoretical, if you wish, I have a redacted copy of a asylum forensic report that I've undertaken, and it can serve the lawyer very well. Obviously, all names and identifying information has been changed. But it could serve as a very important template, not so much for you know, any one particular client But more generally, to see how such a forensic evaluation is undertaken and what the outcome ultimately looks like. So if you want feel free to send me your information, where you work as a immigration lawyer and so on, and I will send you back as the attachment this report for your for your own use. I always do this plug my book is called Handbook of immigration and criminal and immigration forensics. The handbook I think, is the only book in the United States by a mental health professional that has a chapter on each of the major topics. It's both for criminal and immigration lawyers, the Handbook of mitigation in criminal and immigration forensics has a chapter on new visas. Adam Walsh Act criminal immigration, the challenges of evidence of asylum, there's a specific chapter on our topic today, which is sexual orientation, asylum petition, there's a chapter on spousal abuse, and the next edition which will be coming out in a few months. If all goes well, we'll be the sixth edition. That will also have in it a chapter on matter of man, which some people may be familiar with. It's the leading case for a competency evaluations for immigration proceedings. I'm both a lawyer I'm also a mental health expert. I don't practice law. But you know, sometimes I look at a specific case, if it's really on point for an entire subject. The other specialty I have is, of course, criminal immigration for individuals who also have in addition to hardship cases, because of waivers or cancellation removal cases, they may have felonies cmts, and so on. But today we're going to

focus on this particular topic, sexual orientation asylum cases, I do have to make another plug a plug for another book that I've written, as I have on the slide here called the arranged marriage my culpa. It's a novel about a woman who comes from South Asia, and suffers abuse within her own culture, having arrived in the United States and how she extricate herself from it, ruin another novel I have to plug also which is called rest IPSA loquitur. The Mystery of the dead Dean, which is my experience in law school, and the murder mystery goes through, of course, my years in law school, my experience, but but the most important thing, of course, is the handbook, which I really encourage you to purchase. And it's really inexpensive compared to the ALA stuff. I really do, as I said, just about everything for immigration lawyers, these kinds of cases are, in some ways, the most interesting, this very day when this CLE is being recorded. I'm in the middle of literally doing a psychosocial evaluation for a victim of persecution from Russia, because of his sexual orientation. So it's extremely fresh in my mind. This seminar is going to have a few parts to it, it's going to look at the definitions very briefly, of asylum, it's going to look at developmental considerations for the victim of harm in his country of origin. It's good to look at the categories of harm, which are extremely important in these kinds of cases, spousal abuse cases and new visa cases, of course, mental health issues as the next major section and the last are some challenges of psychosocial evaluations, and how to deal with them. So the first thing about sexual orientation asylum claims is that they're really somewhat unique because it's not persecution of the person who's suffering within their community. As we see with political asylum cases, the person is also suffering persecution and or harm within their community within their family of origin. It's quite possible that the greatest harm that our clients in these cases are suffering is with their mother or father, their sister or brother or perhaps at their mosque or their Templar their church.

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The most important thing to understand is that because the harm that their suffering occurs within the family and their immediate socialization, it always results in pathological development of identity. That is pathological development of how the client understands himself and how he understands how he relates to those around him in his community. And lastly, these cases are unique, because these prosecutions tend to be systemic in nature. Again, it's not like political persecution, where the pure persecution emanates from another political group or from the government or the police enforcing particular rules. In US sexual orientation asylum cases, it tends to be that the persecution occurs everywhere within the workplace, within the educational sphere, community, in general family, religious spheres, government and everywhere else. So in order to be eligible for asylum applicant must meet the definition of refugee in the immigration Nationality Act. I'll just read it for everybody. But everybody knows that it's any person who is outside of any country of such persons nationality, or in the case of a person having no nationalities outside of any country in which such person habitually resided, and who is unable or unwilling to avail himself or herself of the protection of that country because of persecution, or a

well founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or of course, most famously, because of political opinion. The elements of the asylum claim are based on based on sexual orientation, or a well founded fear of persecution based on past persecution, or risk of risk of persecution in the future if returned to the country of origin because of his membership in a particular social group. The persecutor must be a government or group of individuals that the government is unwilling or somehow unable to control. And we see that in almost all of these cases. I have slides here on the burden of proof. They're important for more academic reasons. And I know for lawyers, as a forensic evaluator, I look at proof in extremely holistic manner, really interviewing the client from their very, very early childhood, thoughts, beliefs, conduct interests, hobbies, socialization, education and everything else. Obviously, collaborative interviews are important secondary interviews. In reality, though, these are almost always unavailable in these kinds of cases. And we have to rely extremely closely on the personal narrative provided by the client in the sexual orientation asylum cases. What I want to stress first and foremost here is that identity formation and development is crucial to children. It's crucial that they learn to love themselves and understand themselves and their environment, as being something as safe. Healthy, is extremely important for children to enjoy a sense of security and protect predictability about their environment, and who their caretakers are. In our cases, with sexual orientation, petitions, we see clients who grown up, where they are ridiculed and where they're abused, and they have never felt safe. These are individuals who may have confusion about their identity. Normally, we understand our identity by our identity by comparing and contrasting ourselves, with people our own age of different genders, people doing different kinds of activities, and so on. The persons who have been the victim of persecution, and these kinds of cases can't really compare themselves to others in a healthy manner. And therefore their identity becomes all the more harmed. In these kinds of cases of greater self awareness is not achieved, then, you know, you end up with a pathological sense of oneself. You don't have a strong positive sense of self identity, you don't have a positive sense of self concept, the person may end up feeling a terrible sense of worthlessness, low self esteem, and they may even internalize a deep sense of self hatred, not just hatred toward their persecutors. But much more often than not. I see in these cases, individuals who come into my office, really disliking their identity, disliking aspects about their personality and who they are. It becomes more difficult as the clients become older as they try to integrate in more healthy ways, within their community peers within their academic school, hobbies, interests, and so on. This becomes even more of a problem in places where there are cultural norms or laws that prohibit homosexuality or prohibit certain kinds of conduct that this person would under other circumstances find to be normative, healthy and enjoyable.

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As the person grows and develops, they have to become much more aware of who they are, and who they are within a particular context. These individuals may encounter a sense of imminent

danger, maybe become very hyper vigilant, not wanting to engage, or approach people with the same sex for sexual intimacy. But even much more basic just for hand holding and dating, and what we consider normal, developing sexual interaction, for perhaps, you know, a young adolescent, the individual may judge himself quite harshly, may berate himself. And we may end up seeing someone who, in early adulthood or even later adulthood, really is very depressed and anxious because of a misunderstanding or a poor understanding of their needs, and how their needs were cared for in earlier developmental periods of their lives. Some of these clients become very secretive. They try to protect themselves, through hyper vigilance, they're always looking over their shoulder and their country of origin, where homosexuality, for example, is outlawed, or deemed evil. They're always very much aware of who they're talking to, and who they should or should not interact with. You know, in normal society, of course, when couples are together, they may just unconsciously touch each other, hold each other's hands, such things would be prohibitive in these kinds of circumstances. I just saw the case, as I mentioned today, where the individual at one point, was speaking with a potential boyfriend in front of a bar, he was having a cigarette outside, and their hands simply touched, and it was not hand holding, but similar to it. And some other people who are walking by saw this and became incensed and started to yell, terrible expletives and all sorts of verbal abuses, because it was obvious of their homosexual connection to one another. So even things that we take for granted as being very simple, we don't even think about in these kinds of situations communities, it becomes extremely dangerous, and the person has to be very, very almost paranoid, to ensure their safety. These persons become very guarded, they may have a deep sense of suspiciousness. And they develop a very low sense of trust in others. And ultimately, they may really suffer in later life because they may develop a very low sense of trust in themselves. That means they don't really trust their own opinions. They don't trust their own decisions, because somehow they find that they've gone into situations where they've been persecuted or suffered human rights violations because of their sexual orientation. The courts are still in the early phases of understanding this, there's so many times when we have to explain in court about these kinds of petitions, and same sex relationships, it becomes all the more difficult. If the person is of a bisexual orientation. clients may present with both homosexual and also heterosexual experiences in their past, both in adulthood and adolescence. But the bottom line is that this need not undermine the client's underlying petition, or claims of persecution and mental health professionals should really be quite diligent in presenting a psychosocial history for the reader regarding the client sexual development, intimacy, exploration, sexual interests, proclivities, and interpersonal, interpersonal pathways, throughout adolescence and throughout adulthood. In societies where there's obvious persecution against this kind of issue, the homosexual find a certain outlets to deal with the anxiety that really will help them to function as best as possible on a day to day basis. The individual may deny their homosexuality or sexuality outright, the person may actually join other peers who are against homosexuals, because they may feel safer in that larger majority that wishes to harm others. Sometimes I've seen clients who become extremely isolated to protect themselves with minimal interaction with peers, the person may engage in self destructive

activities, they may become impulsive, they may develop promiscuous have behaviors or criminal behaviors even or anti social behaviors. They may also develop goal oriented approaches such as putting, you know, six, seven hours a day into studying and becoming outstanding academic students. I've seen this with some clients as a means to not deal with their sexuality with their peers and classmates and so on. And they become excellent students they do very well academically and and go on to university In a very praiseworthy manner.

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In non persecutory areas, we still find ways for individuals to deal with their anxiety, they may avoid their sexual identity altogether, they may avoid school dances and so on. Others may seek professional help if that's possible. other individuals, of course, who do not want to contend with these issues may find themselves married people of the opposite sex, and then years later find themselves in relationships that are just very dysfunctional, and so on. You know, we live in a community, especially here in New York, where there's so many psychological, social supports, and so on. But many of our clients, of course, have grown up in a place where there are no social supports, and no social services. They can't go to the police, the government, it may have outright laws, their religion may have outright laws against homosexuality, and so on. And this remains extremely important. This also means important for immediate family members, I've seen many, many cases, as I saw today, where the head of the household often the father is particularly upset with what's going on. Why because he feels that it's going to harm his standing within the community. The client I saw today had a father, who's Muslim, the moms Christian, growing up in Russia. And he was saying how difficult it was for the father, he was fearful that he himself would be harmed that his job could be somehow undermined, and that his social standing would ultimately be jeopardized because of his son's sexual orientation in the home. There are many types of harms. And I just want to look at a few of these because they're so serious. There's physical harm, there's coercive harm, there are different kinds of harms that really need to be considered. What I tell clients, and what I tell lawyers is I look at harm in the most holistic way possible. I really look at this through any individual's eyes who suffered human rights violations, because it's difficult to know where the harms can occur. It's a little more clear in spousal abuse cases, as I've done in the CLE. For VAWA, it's a little more clear in cases of U visa petitions where the person has been the victim of crime here in the United States. But in these kinds of cases, the harm can really show up anywhere and used to take a very, very broad approach for that reason. The person may have experienced, of course, discrimination economically, within their workplace within this sphere of their academics, education, community, family, and so on. They may have experienced extortion, robbery, I've seen clients who have been told, you know, by abusers, you know, you have to give me a certain amount of money or I'll reveal to your school what your sexual orientation is, and so on. The types of harms are almost endless. And they need to be asked about nonetheless, in a very parochial in a very narrow manner, because we only have a few hours to really interview these clients. And to gain a very broad perspective, with some

examples, some specifics

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about what occurred so that it's fleshed out sufficiently enough so that the reader of the report can feel quite secure that the material presented is not only sufficiently complete, but of course, authentic and ultimately persuasive. serious physical harm is more unusual. That could involve you know, of course, beatings, of all kinds, I happen to have seen, as I said, My client today who suffered a severe injury when, during the course of being attacked specifically because of a sexual orientation, His head was smashed forward, and when they face hit the pavement, he suffered a broken jaw and damage to his eye. Most of the clients I see for these kinds of cases don't suffer such serious physical harm. This client actually needed to go to the hospital, he needed his jaw wired because of the impact on the sidewalk. And he's able to obtain a medical records from Russia, which of course, is extremely supportive, important evidence for the case. Most of the physical harm I see in these kinds of cases are much less serious, but nonetheless need to be recorded. One of the major problems I see is that clients who suffer for example, physical bullying in school over many years, because it's normative for them because they experience it every single day. They don't report it. But of course, it needs to be reported and memorialized. Again, my client today he's bullied on such a regular basis throughout his school years that he just thought it was part of growing up in Russia. Because of that he didn't take it so seriously, during the evaluation, I really had to elicit that material from him in a professional way. Obviously, a physical harm can be much more serious. It can involve objects such as a threats by gun or knife, there could be baseball bats, any and every kind of harm. That physical needs to be included. And the litmus test is, does it involve an unwanted touching unwanted touching, of course, is the common law definition. And that's what we always use in these kinds of cases, including VAWA cases, and so on. threats of harm are also extremely important. I have some case law here on the slides. threats of harm are often more serious because the individual just beneath the surface, even though they look strong, really have a deep fear about their secret regarding their sexual orientation coming out. They have a deep fear of repercussions within the community, family, workplace education, and so on. And often threats, which can come in the form of coercion, or manipulation and so on, can be equally or sometimes even more damaging, and hurtful.

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Economic repercussions, I see many clients who have to leave their jobs or are forced to tailor their jobs in a certain way because of persecution, they suffer. My client today, for example, was originally teaching at a university, he was a professor of philosophy, a very educated man. And one of his students came forward and said, you know, if you don't give me good grades, and you don't give my friends in the class, good grades, this is a university that we would tell the administration about, you know, your activities, going to clubs and whatnot. The client did not

want to be extorted in this manner, because he had a lot of pride as a professor at the University. And sure enough, the client went forward, the student went forward and informed the faculty and the professor's contract was not renewed at the end of the semester, and he left. So that's an obvious form of economic persecution, where his employment was completely undermined.

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Sometimes the individual works and lives as the part of a group, sometimes the individual doesn't. These, this is important to understand at many levels, I have to tell you that I've actually seen cases, one in particular, I can remember where the individual grew up, very aware of his homosexuality, of his attraction of the kind of sexual intimacy he desired. Excuse me, however, he saw other older teenagers and young adults, similar to himself, who were ridiculed within the school system, who were demeaned within the community and the client. What did he do? He remained closeted for safety reasons. He said, No, I'm not going to approach anybody, I'm not going to have any kind of sexual life at this point in my life, maybe some other time. And when he came to the United States that he did develop a healthy, normal sexual life. So this is an individual who, in a sense, really is not part of any group, within his country of origin. He This is an individual who did not display any kind of overt sexuality in any way or have any kind of relationships. And these cases are more difficult to contend with, because this person felt that they were just not safe enough. And therefore the kinds of harms that this person has suffered, may be less overt, in these kinds of cases, is very important to look at the individual's fear of persecution from a very idiosyncratic perspective, that is to really understand how that person perceived his place within his family, community and so on and what he believed the potential harm that he could suffer if he had acted in a more overt way with regarding with regards to his sexuality.

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And again, any other harms I have on the slide here that may be possible to include, should be included. Again, sometimes these harms are extremely nuanced. And they actually find paradoxically, that some of the harms that have a client suffering sexual orientation petitions, or harms that they suffer extremely early in their life with very close family members. So I've had clients for example, let's say they've been ridiculed or even beaten up by their brothers, because they were playing with a female toys or dressing up in female clothing. And then later, as you know, a young adult, they find that they are persecuted within the school system within the community in one way or another, or maybe even suffered a terrible physical harm nonetheless, This client, these clients will always report that the harms they suffered in their very early childhood with their family is the most serious, even though objectively one would think that the latter harm is. The reason is, their child grew up in a family in which they normally should trust their siblings normally, where they should have care provided for by their mom, their dad, and so

on. But because of the abuses of they suffer from siblings, and parents, and so on, they feel a deep sense of betrayal, a deep sense of loss of trust. And sometimes it is exactly those harms, which have the greatest negative psychological impact on the client going forward in his or her life. What I'd like to look at now, broadly are mental health issues. What I've tried to look at in the first part of the seminar is to explain that healthy development for these kinds of clients is almost impossible, and they develop a pathological sense of self, sometimes a very poor sense of self regard, they don't feel safe, they don't have a sense of security or stability in their lives. The people who are supposed to be their caretakers don't care for them as they should don't have any respect for the child growing up. These are individuals within their community and development. They may suffer terrible, denigration within their religious forums, academics and so on. So they suffer a pathological development. And in turn, they suffer various kinds of harms within their communities, physical, psychological harms, emotional harms, economic harms, religious harms, personal harms, financial harms, and so on. Just like development has to be thought of both various and critically, as to this particular person's development. We also want to look generically at how people should normally develop in a healthy environment. So too with abuses, we want to look at how the individual suffered abuse and specifics examples and details of his or her abuses. But we also want to understand, in general what kind of abuses the person may have encountered what abuses people usually encounter under such circumstances and ask about those as well. I say that because the same thing is going to be true for the mental health section, which we're going to tackle now. We want to ask both generally about mental health issues, that one would expect individuals who've suffered these kinds of harms, to have experienced at the same time, we want to understand from a very individual point of view, what the individual has experienced, so that we know what their subjective experience was in their country of origin before relocating to the United States. The first issue then is Post Traumatic Stress Disorder I've talked about in other seminars, especially in the context of VAWA cases, and u visas and others. In Post Traumatic Stress Disorder, the individual has experienced the witnessed or is confronted with an events or sometimes a series of events that involve actual or threatened death or serious injury in the serious death or serious, I'm sorry, threatened death or serious injury, or threat of physical integrity of the self or other. The person responds with a deep sense of fear, helplessness and hopelessness. The person may feel quite numb, the person may feel quite fatalistic, because what has occurred.

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This is not usually the kind of trauma that one experiences after a car accident where there's a car accident occurs over a few seconds, the accident happens and you then move on, you may require medical treatment or whatnot. In these kinds of cases, persecution is much more insidious, is much more systemic. It occurs in every part of the person's life. It occurs over many years. It occurs in many different contexts, and many different kinds of abuses will reoccur. So for example, as I said, I have this client this morning who was the victim of physical abuse by classmates in a

school system over and over again over many years. He's not abused once he's abused many times in many different contexts in many different ways. So the trauma one would expect would be quite systemic also in nature. So the the second major criteria of post traumatic stress disorder is that the person re experiences the trauma that means that the person over the course of time will feel as if they're almost reliving what's happened. The memories will for some reason come back into their minds. Usually, we actually have very poor memories research shows we have very poor memories with regard to short term issues and long term memories. For some reason people that have suffered trauma have very good memories, something in particular is implanted on the mind. They've metabolized, they've taken in neurochemically a very traumatic event or events and it can't seem to leave their immediate consciousness. Next is persistent avoidance of stimuli associated with the trauma. The person wants to associate themselves with something other than what has occurred. In our cases, we see individuals who come to the United States and one of the things that they do and coming to the United States is distancing themselves from their country of origin, their community of origin, their family of origin, where they suffered the abuse. And that in itself itself is not only helping them to seek safety, but it's helping them in terms of their mental health well being as well. in sharp contrast, we see sometimes cases in spousal abuse, for example, where the individual may be a victim and leave the abuser. And she is trying to move on with her life, but they live in the same city or maybe even the same general community. And she always fears that she may bump into this person. In our case, we have clients that have removed themselves completely. Nonetheless, the client may generalize fears in one form or another, for example, a client that has suffered, for example, physical abuse by a police officer, because of his sexual orientation may come to the United States, and may fear anybody who is a police officer. In fact, the fear may be so generalized that the client may fear anybody who's wearing a uniform, or may even for anybody who's in a position of authority. And of course, the other thing to consider is that many of these symptoms cause increased arousal. And that means that the person from that point forward really feels quite hyper vigilant. They have a very low sense of trust and people, they're always looking over their shoulders, you tap them on the back, and they just jump 10 feet in the air. Why? Because to adapt, and live in an environment where they suffered persecution, human rights violations, they could only have lived by being hyper vigilant, they could only have lived there by being very, very immediately conscious, self conscious and conscious of what's going around them. The next major issue I want to look at is depression. Depression is not just sadness, it really includes something much more profound, where the person feels as sense of helplessness, hopelessness, they have a subjective feeling that things are chronically bad, they may be find themselves crying or feeling so helpless, that life has little or no meaning. They often experienced low energy anhedonia, which means they don't have any ability to derive pleasure from everyday activities. They may have very low self esteem as we mentioned before their self esteem may be destroyed their personal sense of identity during crucial years of development may have been irreparably harmed. They may display psychomotor psychomotor agitation or retardation mean they don't want to get out of bed in the morning, they're very tired. Or sometimes they're a little bit too hyper, they find themselves goal oriented. Some of these

clients suffer from chronic problems with appetite, they eat too much or too little, or they find they have no appetite at all. Many of these clients suffer from chronic anxiety, and actually report a terrible nightmares or bad dreams reliving what occurred in their country of origin. Or they may find themselves experiencing nightmares in which they're being harmed, or chased, or otherwise find themselves in a place where they can't escape some kind of persecutory issue.

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Many of these clients just feel worthless about themselves. They've internalized learned helplessness, a deep sense of feeling that even though they were persecuted, suffered human rights violations that somehow because they found themselves in an environment or family or community where they were trapped and suffered. They nonetheless, to some degree, blame themselves thinking, you know, why did I continue to live there? Why didn't I get out earlier? Could I not have done more to somehow protect myself against these kinds of problems. These clients often feel a deep sense of shame, humiliation, and so on. And sometimes these clients end up cutting off all ties with their family and community of origin when they come to the United States. And some find it very difficult to reestablish new relationships socially and otherwise, even years after coming here. Another major issue is suicidality. Some of our clients experience this and it really needs to be explicated in the report. As suicidality means that the person is thinking about death in some way. They're thinking about ending their life. And it could be something that involves something more active such as taking pills ingesting enough pills to endure life or jumping off a bridge, or walking in front of a train. Or it could be more passive in nature, such as the client thinking, Well, what would it be like if I could sleep and sleep and sleep so that I never wake up so that my psychological pain could vanish. These clients inevitably suffer from chronic feelings of hopelessness, chronic feelings of deep helpless despair and psychological pain, to the point where they just don't feel that life has Has any value, and they want to end their lives. Again, these clients often have anhedonia. anhedonia means that they can't derive any kind of pleasure from everyday activities. And the clients really kill themselves for one of two reasons. Either they don't want to be alive anymore, or the clients want to end their psychological pain. And obviously, there's an overlap between these two groups. Some of these clients develop what looks like borderline personality disorder, I have a completely different CLE. For Criminal Lawyers on borderline personality disorder, if you're interested, you should certainly look at it. But about 1/3 of people who are diagnosed with borderline personality disorder, suffer a history of sexual or other kind of abuse. I've seen a lot of clients, particularly males, who emerge from their country of origin, and come here and because of the persecution they have suffered, they feel a chronic sense of emptiness. They have a very poor sense of their own identity, they're often impulsive, they may have transient psychosis, they're unable to establish healthy normal relationships even after months or years of coming here. They can be quite impulsive in their activities, and even undertake self harm or abuse, alcohol or drugs and reaction to the trauma they've suffered in an effort to contend with all their mental health issues. These clients often feel that they experience

periods of dysphoria, where they're feeling horribly down, without any sense of goals or how they can improve their lives in any meaningful way. Many of these clients are unable to see the gray in the world, they see things as all good or all bad, all black or all white, because they've lived in an environment where they're such extremes. And they often find it difficult to take responsibility for their own feelings, their own identity, and they project out feelings that are difficult for them to assume on their own feelings of anger in particular. Because of this, many of our clients actually can be quite contentious, even during a forensic evaluation. And it's important to be able to recognize when this is rearing its head, so that the client can be really spoken to in a way that addresses these fears and anxieties in a manner that permits them to continue with the evaluation and so that the evaluators such as myself can professionally elicit the kind of material required for the forensic report. Men in particular who have experienced this kind of persecution, their country of origin may suffer from also body dysmorphic disorder, that is, such clients may look at themselves in the mirror. And they just don't see themselves physically as normal, they see essential defects or they see themselves in excess in some ways, that is a client may look at their face, and they may seem normal to you and me, but they may view the their faces as scarred or otherwise distorted. They may see themselves as overly heavy when in fact, they have a normal weight or for that matter, terribly thin and gaunt when in fact, they have a normal wait.

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This is particularly crucial where homosexual discrimination in the family and community necessarily deems the young person's behavior and behavior in person as deviant, as unwanted and in particular, as ugly. That is the person internalize a deep sense that not only are they not wanted, but there's something necessarily wrong about them wrong about them psychologically wrong about their body, they're deviant, they're ugly, and in turn, they view themselves physically in this matter, and it's called body dysmorphic disorder.

39:02

Another hugely important issue is psychosis. psychosis basically means out of touch with reality. And other two major kinds of psychosis I really want to look at the first kind of psychosis is called a hallucinations. And those are false perceptions. In hallucinations, the person sees things or hears things that aren't real. And very often I've seen clients who are walking down the street, they think they're hear their name being called, or at night, they're in bed and they see shadows or ghosts or whatnot. This psychosis occurs because in the country of origin, the client had to be extremely hyper vigilant and always aware and super aware of what was going on fearing for their safety. I saw this many years ago, when I first started with clients who had been in prison for years or even just months. In order to survive. They had to be super aware of everything that was on around them, who is passing them, under what circumstances and so on. And so some of these clients do have hallucinations, which really need to be recorded and really reflect the seriousness

of their mental health issues. The second issue are delusions, delusions, or false beliefs, you know, false beliefs that the government has after us false beliefs that someone is trying to harm us and so on. Except with our clients, paranoia is adaptive. We see this with spousal abuse cases. And we see this in asylum cases, where it is adaptive to be hyper vigilant and is adaptive, to have a low sense of trust and people, these individuals will be very suspicious, there'll be very guarded. And that's how they survived in their country of origin. Even if they were not always in immediate, immediate danger. Nonetheless, even the individual who does not act on homosexual impulses, or feelings, or intimacy, or whatever with others, may nonetheless, even within the context of their own home, be super aware of their surroundings, because of perhaps prejudices or biases, as I said before, by parents, caretakers, siblings, and so on. psychosis is very important. Because if the person is that guarded, they're going to be very reluctant to share personal information from their histories. A person who's reluctant to share that kind of information will inevitably fail to provide a full history. There are certain ways you can deal with this, including trying to get a parallel history. But most of all, just simply being a very good clinical expert, sort of picking up on very nuanced cues, that suggests the person is holding back, that the person doesn't really feel a sense of trust. As I've said, in different contexts, one of the tricks here is just to start with good stuff. You know, I asked, you know, what is your best memory growing up? Do you have positive interactions with your parents or siblings? Before all these problems began? If the answer is yes, they say, Well, you know, tell me about it. Did you enjoy sports? Or did you enjoy social outings with your family? Did you idealize your father at one point? Did he take you to, you know, church or mosque or temple whatnot. And sometimes starting in a more happy place in a place that is more normal for people in general, may help the person to feel more relaxed before we get into issues that are extremely painful, extremely painful. What I'd like to turn to now are challenges in the psychosocial valuations. So we started looking at the challenges of healthy development for such individuals in the context of a persecutory society or family. Then we looked at the challenges understanding what kind of harms this individual may have suffered physical, emotional, psychological, financial, and so on. Then we looked at a wider range of possible mental health problems this person may have suffered including psychosis, depression, trauma, and so on. And now what I really want to look at is challenges of the psychosocial challenge evaluations themselves that is challenge that present themselves with this particular population. First, these individuals, as I said, are very guarded. And so you really want to start in a place where they're able to express their needs and feelings in a way that they feel safe and they feel comfortable with you. It may help to have a parallel history from the clients family of origin orphaned in the community. Often this is just not possible for various reasons. Sometimes, it's very helpful to have a completed personal statement or narrative that the client has done so we can work with that, or perhaps even just the bare bones outline of the silent petition as a medium from which we can use as a springboard to ask different kinds of questions.

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It's important to understand that many of these clients have not sought mental health assistance even with systemic mental health problems such as anxiety attacks, and terrifying nightmares and trauma and depression and so on. Many of these clients may be quite ignorant of the existence of mental health care, you know, mental health here is ubiquitous. And yet I'm amazed always clients who come here and they're generally unaware of just how easy it is to access different kinds of mental health support systems. Clearly, some clients feel a deep sense of shame, they may not have the financial resources. To tackle this problem they feel they may not be able to pay for a psychiatrist or psychotherapist or counsellor. Many of these clients have fears of authority of all authority, including therapists and even lawyers and judges and so on. And they shut down which is another reasons why it's so important to adequately prepare these clients not only for the evaluation, but for litigation purposes. Some of these clients really feel that what they're going to be telling you is unbelievable. That in a place like Manhattan, I have this today, as I mentioned with my client, who lives in Manhattan after living in Russia reception suffered such persecution, he can't believe that two such different worlds exist. He can't believe that there are so many opportunities in terms of clubs and social events and support groups and bars, and everything in between where he's able to access these things to his benefit. To live a normal life where in Russia, it was just impossible. They may not be able to relate stories of torture, because they may feel that the stories of torture are just too painful to relate. Or they may just not have the vocabulary or the words to articulate what occurred. Many of these clients grew up in societies where mental health diagnoses are stigmatized. And psychiatric care may just be anathema to anathema to their culture. Again, you know, this was a Russian client today you had the sexual orientation asylum petition. And I've heard from many of my Russian clients how in the Russian language there are, there's a rich vocabulary to insult somebody, there's hundreds and hundreds of words, but that the most damning, insulting word you can say to a person is that they're crazy. And so for many of the clients, they may view themselves then as crazy as someone having a serious mental health issue, if they are directed towards psychotherapists, psychologists, social worker, whatever, even if, you know, obviously, it's to their benefit. And if it's going to help the case, nonetheless, they may be very, very reluctant. There may be in some of these cases, narrative in consistencies. narrative and consistencies occur when the client either does not provide the correct information does not provide a complete narrative, omits things, and so on. I had a client today, as I said, who is extremely bright, he was a professor of philosophy. And we've been discussing philosophers later, at the end of the evaluation, and yet he has a very spotty memory, and he's done everything possible, to remove himself from the memories, the experiences and interactions, persecution, and so on that he endured while living in Russia. It's helped him to become more functional in the United States. He's working part time, and he seems to be moving on with his life. He's learning English. Obviously, however, for the purpose of building a complete narrative with details and examples and specifics about what occurred, it's much more challenging. It is often the case that uncertainty and self doubt serve as the defining characteristics of many of our clients in these kinds of petitions. So that the person is forced to recount his life of abuses, and uncertainties and self doubt about personal experiences. In other

words, the client inherently feels extremely poorly about himself. And we're asking him to recount the most negative and the most painful memory experiences of his life. As I said, in other seminars, and it's worth repeating here, sometimes, in certain cases, you have very particular patterns of abuse, like in spousal abuse cases. In persecution cases, we often find the opposite. And I found the opposite was today's client who presented that is there were no patterns of physical, emotional, employment abuse that he suffered in Russia, there were specific instances of abuse that were most serious, and there was systemic abuse within the community and culturally, but there weren't any specific patterns, except when he was school aged, you know, throughout his adolescence, in particular, from about age 12 to 16. When he was in high school, he suffered bullying. And he suffered verbal abuses from peers and classmates, classmates on a very regular basis, almost each and every day. And so that really formed a pattern. But as an adult, he didn't experience that as an adult. He was in the workplace, and he went to college and so on. And he was in environments where he suffered persecution. But they occurred at certain times, also to the most serious instances of persecution that he suffered, occurred when he was attacked at two different nightclubs in two different cities of two different times. They were unrelated. These were completely different attackers, and there was no clear pattern for him. And sometimes that occurs. Sometimes the harm that these clients suffer in their country of origin is capricious, it's arbitrary, it's just based on psychopathy or pure hate and so on. As I also explained in many seminars, it's important to understand that

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When there's no pattern of abuse, it actually brings greater emotional harm. There's this famous experiment where you know, two mice are in boxes, one mouse gets shocked every five or 10 minutes very consistently, the other mouse gets shocked and very inconsistent intervals. The mouse who shocked much more consistently does much better. Because that mouse is able to predict when it is going to occur and can some extent normalize his life, the mouse that is unable to predict with any certainty what's going to occur, develops a fantastic sense of uncertainty. existentially develops, learned helplessness is a clinical term, which we often see again, in spousal abuse cases, helplessness, and so on. Because there's no predictability. And that's what I saw with my client today. And I've seen many of these cases, because there's no predictability when the individual may be attacked or not attacked, because there's no predictability of what harm exactly will occur to that person within their sphere of their workplace, within their community, and so on. The person ends up feeling anxious all the time panicky all the time, and so on. The one year filing deadline is a big issue. I discussed this in a separate seminar for FGM female genital mutilation. But the main point here is to understand that if the one year filing deadline is an issue, to not understand or not look at it in a narrow sense, just in the few weeks or months before the person came to the United States and what was going on, and why they didn't file immediately, then quite the opposite, to look at their life holistically, to look at the cumulative effects of the harms they've suffered psychologically, emotionally, and so on, throughout their childhood,

adolescence and adulthood, and so on. And to understand how cumulatively, it has led them to become very isolated alone, and the psychiatric outcomes that would prohibit them from making the proper decision for filing. This is particularly important because many of these clients have a fantastically poor sense of trust in others, they don't have access to resources. Of course, some of these clients have poor or very, very poor English language skills. And they just don't feel any sense of security, any sense of safety or stability within their lives. You know, it's very difficult for us to translate what I find in an interview to evaluation. But that's the reality of this kind of work. The nice thing about the courtroom setting for a asylum cases that I can explain directly to the immigration judge or or the TA, my findings, my understanding of how the individual has presented mental health issues development, persecution, harms, and so on. The courtroom studies is necessarily adversarial, we would expect the client to shut down a little bit, the lawyers are professional, I'm a professional, we're prepared for this kind of work. But I've seen clients who almost run out, they find themselves with thoughts running over each other their words becomes pressure, their speech is unclear. And even though it's relatively informal, in immigration court, you know, as opposed to a civil court where you may have a jury or criminal court, the reality is that it can be simply overwhelming. You know, one thing I want to explain is that there's internal versus external material in these kinds of cases. And that is some of the most important material that can be garnered to support the case and explain the harms of the person suffering to their country of origin are very, very personal. They're very internal. I mean, what could be more personal than sexual intimacy, sexual orientation, and sexual conduct? It can be therefore all the more painful to dredge up these memories and to relate them to a perfect stranger, it can be really quite overwhelming, it can be horribly humiliating and embarrassing. Nonetheless, it can be among the best material that I find and that I'm sure the lawyer finds in an effort to advocate for the case, not only strongly but just completely to have a complete sense of the person's experience before coming to the United States. For this reason, internal issues that are so personal best elicited by a mental health professional, including issues related to the family of that individual, his community life psychodynamics, which concern unconscious motivations, General oppression and other experiences of the person experienced before relocating to the United States. Sometimes it's the very nature of the subjective evidence and the person's internal life which can be most helpful for myself as a forensic evaluator and to understand the individual.

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Often for these clients, professional expression really does replace self expression. These are clients without sometimes adequate education. They may have left their schools at young ages, or they may have graduated high school but really have not really learned that much because they were so unable to focus with so little attention because of what their experiences were, they're always scared and they weren't really listening cloth, they really weren't doing their homework and they may have the educational level of someone much younger. This is particularly true for clients who don't have English language skills, and really need someone to

express professionally through eliciting of material, what their experiences were and human rights violations and persecution before relocating to the United States.

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All of these kinds of intellectual and educational for example, limitations are also a good thing, because it reflects that the client may have experienced problems at a much earlier developmental stage. And I frankly see many clients who seemed perfectly intelligent, and they're very articulate, and yet it's clear they suffered very terribly academically in school is because of depression, anxiety, and so on that they suffered at much earlier points. functioning is also much more important over narrative. That is to really try as sometimes to show that the clients function was so poor, that because of the persecution in their country of origin, they weren't able to complete their education. They couldn't function in normal way with goals or aspirations about a professional career. They didn't have a social life, their hobbies, and their interests were very, very limited in their country of origin. There is a expert mental health clinician who once said that patterns really define psychopathology. And sometimes, understanding how people function in terms of patterns or for that matter, don't function can really reflect much more than the narrative itself, because sometimes the clients present narratives that are unclear, and so on. And sometimes it's because the clients have grown up in situations where they don't have a clear narrative. In other words, they've had so many limitations of their country of origin, which with regard to their development, socialization, and everything else within the community, that they don't have a clear narrative where, you know, you might speak to someone here, they said, Oh, I went to camp and I did this. And then I met this person, I went to school, I had this experience, I built this, I developed this hobby, this is my interest now. And you can sort of get a narrative that's quite normal about a person's life, which is sometimes absent in these kinds of cases. Looking at the ways in which the client did not function can sometimes be as helpful even more helpful than understanding a consistent narrative that the client presents. Because of these difficulties, sometimes it's possible to get a parallel history from a friend, or someone in the community that knew the client in the country of origin. Sometimes, it's also very, very helpful to get a parallel history from someone who knows the client. After the client has relocated to the United States, especially if they've missed the one year filing deadline. To get a sense of the challenges that the client has had after relocating to the United States, the obstacles given his or her mental health problems and so on. Unfortunately, parallel histories from family members are rarely available in sexual orientation, sexual orientation, asylum petitions, sometimes they're impossible even to garner from a close friends within the community. However, I've had a number of cases where I was able to benefit from this, especially from individuals who were a member of saga here in New York City. And it really provided I think, a much richer understanding, not only of the individual man given his or her own personality and needs and interest and so on, but just on a day to day basis, how other friends and individuals in the community see this person function on a day to day basis. Sometimes there is simply lack of detail. This is something which I've mentioned a few times

in the seminar. Memories are often collapsed. As I said, I had a client today, he had a few specific memories of very severe physical harm that occurred when he was an adult. Because at first it happened more recently, but of the particular context. In contrast, he has many memories of physical abuse and bullying while being in high school. And those memories are collapsed. He finds it very difficult to distinguish one particular instance of bullying one particular instance of physical abuse by classmates from another instance, because you sort of collapse them into a single memory. Memories tend to be most clear when they're outrageous, right? Something that outrageous happens to you such as a sexual assault, something that is sexual exceptionally out of the ordinary. Another clear memory tends to occur when it's qualified. That is, it's qualified by shame or guilt. I see for example, women in particular in spousal abuse cases that they live with terrible verbal abuse, but one day it happens when they're in a store buying something and they feel humiliated because they're in public. They remember that particular instance of verbal abuse. And the third time memories tend to be clear is when it's impossible to forget, for an objective reason such as my client today, he was thrown to the ground in a moment of physical harm, suffering a major injury to his jaw. his jaw was shot with wires, he needed surgery, it's something he's always going to have with him for the rest of his life, physically and objectively.

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Well, I want to thank you today what I've tried to do is present an A to Z overview of sexual orientation asylum seminars, looking at how these cases are very unique in and of themselves understanding the development and pathological growth of these individuals, in societies and families and cultures, were not allowed to develop a normal sense of identity and a healthy sense of who they are understanding the main forms of abuse and persecution and harms that they may suffer their country of origin. And of course, as a result, major psychiatric issues including Post Traumatic Stress Disorder, depression, panic attacks, suicidality, and so on. And finally, understanding some of the major challenges, major challenges not only for the attorney, but major challenges for the forensic evaluator in trying to best advocate in a more complete and holistic manner to the benefit of our clients. Thank you very much.