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Glennys E. Ortega Rubin

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A Call for United States Courts to Reevaluate Policy Considerations Regarding Female Genital Mutilation as a Justifiable Reason for Asylum: *Abankwah v. Immigration and Naturalization Service*, 185 F.3d 18 (2d Cir. 1999)

Glennys E. Ortega Rubin*

I. Facts

Petitioner, a twenty-nine year old female native of Ghana and a member of the Nkumssa tribe, was heir to the position of Queen Mother of her tribe.¹ In order to become Queen Mother, Nkumssa tribal tradition mandated that the woman remain a virgin until her marriage.² Despite being aware of this tribal taboo, Petitioner engaged in premarital sex, violating Nkumssa tradition.³ According to Petitioner, a woman's punishment for violating the tribal custom is female genital mutilation (FGM).⁴ Petitioner, knowing that her lack of virginity would be discovered on her wedding night, fled to the capital city of Accra.⁵ After learning that members of her tribe had come to look for her in the city, Petitioner purchased a false passport and visa and fled to the United States.⁶

* (J.D.) University of Florida College of Law, 2001. This Comment is dedicated to my family – my parents Gregory and Glennys Ortega and my brother Ramon Ortega, for their unconditional love and for always encouraging me to pursue my dreams, and my new husband Stefan Rubin, without whose support and guidance this never would have been possible.

1 See *Abankwah v. Immigration and Naturalization Service*, 185 F.3d 18, 20 (2d Cir. 1999).

2 *Id.*

3 See *id.* The international community has recognized that in some communities mutilating a female's genital organs is a way to ensure a woman's virginity prior to marriage and chastity after marriage. See *Office of the High Commissions for Human Rights, Fact Sheet No. 23: Harmful Traditional Practices Affecting the Health of Women and Children*, (last visited Oct. 6th 2000) at <http://www.unhcr.ch/html/menu6/2/fs23.htm>.

4 See *Abankwah*, 185 F.3d at 20. The Court elaborated that the type of FGM practiced in Ghana requires the amputation of the woman's entire clitoris, along with the amputation of part of the labia minora. See *id.* Female genital mutilation is the term given to the practice of removing all or part of a girl or woman's external genitalia for non-surgical reasons. See *World Health Organization (WHO), Female Genital Mutilation Report of a WHO Technical Working Group*, Geneva 17-19 July 1995, 4 (last visited Sept. 24th 2001) at http://www.who.int/frh-whd/FGM/Technical_Working_Group/English/Technical_Working_Group.htm. [hereinafter WHO Report].

5 See *Abankwah*, 185 F.3d at 20.

6 See *id.* at 20-21.

Upon her arrival in the United States, the Immigration and Naturalization Service (INS) apprehended Petitioner at John F. Kennedy Airport in New York and initiated deportation proceedings against her for illegally entering the United States.⁷ At the INS hearing, an Immigration Judge found that Ghana prohibited the practice of FGM. As a result, Petitioner could have sought protection from the Ghanaian government. Nonetheless, Petitioner failed to establish that she had an objectively reasonable fear of FGM and, consequently, was denied asylum.⁸ Petitioner appealed the decision to the Board of Immigration Appeals (BIA), which dismissed the case, stating that Petitioner did not meet her burden of proving past persecution and that the evidence Petitioner presented failed to establish a claim of persecution based upon her membership in a particular social group.⁹ The United States Second Circuit Court of Appeals reversed the BIA's denial of asylum and held that in determining whether a woman's fear of FGM is valid for asylum the fear must be sufficiently grounded in reality.¹⁰

II. History

The international community has recognized the practice of FGM "as a violation of women's and female children's rights."¹¹ In fact,

⁷ See *id.* at 21.

⁸ See *id.* The Immigration Judge noted that Ghana criminalized FGM in 1994. See *id.* However, only seven arrests for the crime of FGM have been made in Ghana since 1994. See *id.* at 25. Additionally, the Immigration Judge expressly stated that Petitioner should be able to get protection from the Ghanaian Government or from a non-governmental organization. See *id.* It is important to note that the United Nations High Commissioner for Refugees and non-governmental organizations carry out measures for the protection, sustenance, and resettlement of refugees. See Louis Henkin, et al., *Human Rights* 405 (1999).

⁹ See *Abankwah*, 185 F.3d at 21. Persecution is defined as "a program or campaign to exterminate, drive away, or subjugate a people because of their religion, race, or beliefs." *Random House Dictionary of the English Language*, 1444 (2d ed. 1987). Additionally, persecution requires that a perpetrator cause a victim pain or injury. See *Pitcherskaia v. Immigration and Naturalization Service*, 118 F.3d 641, 648 (9th Cir. 1997).

¹⁰ See *Abankwah*, 185 F.3d at 26; see also *Sotelo-Aquije v. Slattery*, 17 F.3d 33, 36 n.2 (2d Cir. 1995); *Melendez v. United States Dep't of Justice*, 926 F.2d 211, 215 (2d Cir. 1991); *Purveegiin v. United States I.N.S. Processing Center*, 73 F. Supp. 2d 411, 417 (S.D.N.Y. 1999); 8 C.F.R. § 208.13(a) (1998).

¹¹ See *Abankwah*, 185 F.3d at 23 (citing REPORTS OF THE COMMITTEE ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN, GENERAL RECOMMENDATION No. 14 U.N. GAOR, 45th Sess., Supp. No. 38, at 80, 438, U.N. Doc. A/45/38; THE BEIJING DECLARATION AND THE PLATFORM FOR ACTION, FOURTH WORLD CONFERENCE ON WOMEN, BEIJING, CHINA, 4-15 September 1995, U.N. Doc. DPI/1776/Wom (1996); see also OFFICE OF THE HIGH COMMISSIONER

the World Health Organization (WHO) has “condemn[ed] all forms of FGM and [has] call[ed] for the abolition of the practice.”¹² In addition, the United States Congress has enacted laws criminalizing the practice of FGM in the United States.¹³

Recently, the same court that decided the instant case issued its opinion in *Melendez v. United States Department of Justice*, establishing that an asylum applicant has a well-founded fear of persecution when another individual presented with similar circumstances would have the same fear.¹⁴ In that case, Melendez, a citizen of El Salvador and a former member of a political party attempting to secure free and democratic elections in the region, claimed he experienced continuous threats from the government and that he was hassled by guerilla forces.¹⁵ Shortly after his wife’s death, Melendez left El Salvador and went to the United States for the first time.¹⁶ Three months later, Melendez was deported by the INS.¹⁷ Once in El Salvador, Melendez was interrogated, threatened, and robbed by government soldiers.¹⁸ Later, after an “investigator”

FOR HUMAN RIGHTS, UNIVERSAL DECLARATION OF HUMAN RIGHTS (last visited Oct 6th 2000) at <http://www.unhchr.ch/udhr/lang/ing.htm>. The World Health Organization (WHO) has estimated that over 120 million girls and women across the world undergo some form of FGM, and that at least 2 million girls are at risk of having FGM performed upon them every year. See WHO REPORT, *supra* note 4. Additionally, the WHO recognizes that the damage done by FGM is extensive and irreversible. See *id.*

12 WHO REPORT, *supra* note 4.

13 See 18 U.S.C. § 116 (2001). However, despite Universal Declarations giving individuals the right to seek asylum in other countries due to persecution, States have been reluctant to assume obligations. See Henkin, *supra* note 8, at 405. Human rights scholars have explained that “the Universal Declaration recognized the right of any individual ‘to leave any country, including his own’ and the right to ‘seek and enjoy in other countries asylum from persecution.’” *Id.* (citing UDHR arts. 13(2), 14(1)). Two international treaties, the 1951 Convention Relating to the Status of Refugees and the Convention’s 1967 Protocol, serve as the foundation for current United States asylum laws. See Michele R. Pistone, *Assessing the Proposed Refugee Protection Act: One Step in the Right Direction*, 14 GEO. IMMIGR. L.J. 815, 815-16 (2000). Persecution has been defined by United States courts as “the threat to life or freedom of, the infliction of suffering or harm upon those who differ in a way regarded as offensive.” *Id.* (citing *In re Acosta*, 19 I. & N. Dec. 211, 222-23 (BIA 1995)). Furthermore, the INS has determined that “violence and oppressive acts against women can constitute human rights violations warranting asylum.” See *id.*

14 See *Melendez v. United States Dep’t of Justice*, 926 F.2d 211, 215 (2d Cir. 1991).

15 See *id.* at 213.

16 See *id.*

17 See *id.*

18 See *id.*

threatened to kill him, Melendez returned to the United States, seeking asylum.¹⁹

Determining the proper standard of review for establishing a well-founded fear of persecution constituted the issue on appeal.²⁰ The court found that “the threshold finding of fact of whether the alien has established a well-founded fear of persecution qualifying that person for refugee status is reviewable under the substantial evidence test.”²¹ The court then explained that in order to satisfy the substantial evidence test, the applicant must not only show a subjective fear, but must also meet an objective component of the test by showing that the fear is grounded in reality.²²

Just one year later, in *Matter of R-*, the BIA expanded upon the *Melendez* ruling and determined that in order to establish a well-founded fear of persecution, an applicant must also demonstrate country-wide persecution or mistreatment by the central government.²³ In *Matter of R*, the applicant was a twenty-one year old male Sikh from the Punjab region of India who claimed that Sikh militants had visited his home demanding money and seeking to recruit him for their cause.²⁴ Later, after the police discovered the applicant’s contact with the Sikh militants, the police interrogated and physically abused the applicant suspecting that he was a militant.²⁵ When the applicant returned home, the militants beat the applicant and attempted to force him to join their ranks.²⁶ After

¹⁹ *See id.*

²⁰ *Id.* at 215-16. Interestingly, although the court found that most circuit courts apply a substantial evidence test for granting asylum, it noted that the “ultimate denial of asylum is reviewed under an abuse of discretion standard.” *Id.* at 216.

²¹ *Id.* at 218. According to the instant Court, when a court refers to substantial evidence, it means “more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Abankwah v. I.N.S.*, 185 F.3d 18, 23 (2nd Cir. 1999)(quoting *Richardson v. Perales*, 402 U.S. 389, 401 (1971)).

²² *See Melendez*, 926 F.2d at 215; *see also INS v. Cardoza-Fonesca*, 480 U.S. 421, 430-31 (1987); *Purveegiin v. United States I.N.S. Processing Center*, 73 F. Supp. 2d 411, 416 (S.D.N.Y. 1999). An applicant’s subjective fear is established when the court finds that the applicant’s fear is genuine and can be based on situations that only affect the applicant personally. *See Wendy B. Davis & Angela D. Atchue, No Physical Harm, No Asylum: Denying A Safe Haven for Refugees*, 5 TEX. FORUM ON CIV. LIB. & CIV. R. 81, 87 (2000)(citing *Civil v. Immigration and Naturalization Service*, 140 F.3d 52, 55 (1st Cir. 1998)).

²³ *See Matter of R-*, 20 I. & N. Dec. 621, 622 (BIA 1992).

²⁴ *See id.*

²⁵ *See id.*

²⁶ *See id.*

continuous abuse by both the police and the militants, the applicant left India and sought asylum in the United States.²⁷

On appeal, the BIA considered whether the applicant could have avoided the ongoing persecution by going elsewhere in his country before seeking asylum in the United States.²⁸ The court ruled that in order for the applicant to prove that he qualifies for asylum, he must show more than a well-founded fear of prosecution in a particular place.²⁹ The applicant must also prove that the fear of persecution exists country-wide.³⁰ The court concluded that there was insufficient evidence to suggest that the applicant's fear of persecution existed on a country-wide basis, and thus denied his appeal.³¹

Finally, in the 1996 landmark case of *In re Fuaziya Kasinga*, the BIA acknowledged that FGM can constitute sufficient persecution for granting asylum.³² In that case, the applicant was a nineteen year old female who was a citizen of the country of Togo and a member of the Tchamba Kunsuntu tribe.³³ After her father died and her mother abandoned her, the applicant's aunt forced her into a polygamous marriage.³⁴ The applicant testified that all young women in her tribe underwent FGM at the age of fifteen, but her father sheltered her from the practice.³⁵ The local police and the Togo government both knew that the tribe practiced FGM, but refused to protect any of the girls from the

27 *See id.*

28 *See id.* at 627. Also, when an individual is incapable of escaping safely to another part of the country, then even if the harm is being committed by a private actor, the harm may constitute persecution. *See* Megan Annitto, *Asylum for Victims of Domestic Violence: Is Protection Possible After Re R-A-?*, 49 CATH. U. L. REV. 785, 798 (2000).

29 *See* Matter of R-, 20 I. & N. Dec. at 625.

30 *See id.* The court noted that implicit in qualifying for refugee status is the notion that an asylum applicant requires international protection because the applicant is no longer safe in his or her home country. *See id.*

31 *See id.* at 626.

32 *See In re Fauziya Kasinga*, Interim Decision (BIA) 3278, 1996 WL 379826 (BIA June 13, 1996) (There are no page references for this document). Scholars have asserted that the Kasinga court, in recognizing FGM as extreme persecution, gives hope to the woman's cause. *See* Annitto, *supra* note 28, at 789.

33 *See* Kasinga, 1996 WL 379826, at *2.

34 *See id.* at 3.

35 *See id.* at 2. The type of FGM that is practiced by the Togo tribe is very extreme and includes the cutting of the genitalia with knives, which causes extensive bleeding, and requires a forty day recovery period. *See id.* at 2.

practice.³⁶ Fearing that her aunt and her new husband would subject her to FGM before consummating her marriage, the applicant fled to the country of Ghana.³⁷ Aware that it was impossible for her to live with another tribe in Togo, and that the Togolese police could locate her in Ghana, the applicant left for Germany.³⁸ Once there, she obtained a British passport and flew to the United States where she immediately requested asylum at Newark International airport.³⁹

On appeal as a case of first impression, the BIA considered whether fear of FGM could be a basis for granting asylum.⁴⁰ Analyzing this issue, the court recognized that the applicant had a well-founded fear of persecution because a reasonable person in her position would also fear return to Togo.⁴¹ The court found that the applicant's fear of persecution was a result of her membership in a particular social group, specifically "young women of the Tchamba Kunsuntu [t]ribe who have not had FGM . . . and who oppose the practice."⁴² Noting that the applicant "would be unable to avoid FGM by moving to some other part of Togo," the court held that the applicant's fear of persecution existed country-wide.⁴³ The court concluded that although a grant of asylum is always discretionary, the severity of FGM rendered such a grant proper in the applicant's case.⁴⁴

III. Instant Case

In the instant case, the Second Circuit similarly held that a woman in danger of having FGM forced upon her has a reasonable fear of persecution and qualifies for asylum.⁴⁵ In beginning its analysis, the instant Court accepted the international community's recognition of FGM as a violation of women's rights, and the United States' criminalization of

36 *See id.* at 3. Critics of the "refugee" concept argue that States often "allow private citizens or groups to act freely and with impunity to the detriment of rights recognized by the international human rights regime." *See* Susan F. Martin & Andrew I. Schoenholtz, *Asylum in Practice: Successes, Failures, and the Challenges Ahead*, 14 GEO. IMMIGR. L.J. 589, 612 (2000).

37 *See* Kasinga, 1996 WL 379826 at *3.

38 *See id.* at 3.

39 *See id.* at 3.

40 *See id.* at 2.

41 *See id.* at 9.

42 *See id.* at 9-10.

43 *See id.* at 10.

44 *See id.* at 10-11.

45 *See* Abankwah, 185 F.3d 18 at 20. It is important to note that, according to the United States Supreme Court, an applicant does not have to prove that persecution is certain or more likely than not. *See* DAVIS, *supra* note 22, at 87. The applicant merely has the burden of proving a ten percent or higher probability of persecution if deported. *See id.*

the practice.⁴⁶ In establishing the legal framework for its analysis, the Court clarified that in order for Petitioner to gain asylum in the United States, she must establish that she fits the definition of a “refugee,” which the Court defined as an individual establishing a “well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.”⁴⁷ However, the Court disregarded the BIA’s conclusion that Petitioner failed to establish that she experienced persecution based on her membership in a particular social group.⁴⁸ Furthermore, the Court never explained how Petitioner fit into any of the previously mentioned categories of “refugee.”⁴⁹ Nonetheless, the Court did state that in order for Petitioner to be a “refugee,” she must also be unable or unwilling to return to her native country because of a well-founded fear of persecution.⁵⁰

The Court then examined Petitioner’s case by applying the substantial evidence test established in *Melendez*, whereby a well-founded fear of persecution is established when a reasonable person facing similar circumstances would experience similar fears.⁵¹ The Court found Petitioner’s fear of persecution was completely genuine and credible, thus she met the first prong of the substantial evidence test which mandates that the fear must be subjectively real.⁵² The Court also noted that by proving that her fear of FGM was objectively reasonable, Petitioner met the second prong of the substantial evidence test.⁵³ Criticizing the BIA’s decision that Petitioner did not provide sufficient evidence to prove persecution, the Court construed the BIA decision as “too exacting in both the quality and quantity of evidence that it required.”⁵⁴ The instant Court relied upon Petitioner’s testimony and affidavit as factual truth that she would be subject to FGM, as was common tribal punishment for premarital sex.⁵⁵ The Court also accepted

46 See *Abankwah*, 185 F.3d at 23.

47 See *id.* at 22. The Court’s definition of “refugee” was in accordance with § 101(a)(42)(A) of the Act, 8 U.S.C. § 1101 (a)(42)(A) (1994). See *id.*; see also *I.N.S. v. Cardoza-Fonseca*, 480 U.S. at 428; *Purveegiin*, 73 F. Supp. 2d at 416.

48 See *Abankwah*, 185 F.3d at 21.

49 See *id.*

50 See *id.* at 22.

51 See *id.* at 23; see also *Yong Hao Chen v. Immigration and Naturalization Service*, 195 F.3d 198, 202 (4th Cir. 1999); *Huaman Cornelio v. Board of Immigration Appeals*, 979 F.2d 995, 999 (4th Cir. 1992); *M.A. A26851062 v. Immigration and Naturalization Service*, 899 F.2d 304, 311 (4th Cir. 1990).

52 See *Abankwah*, 185 F.3d at 24.

53 See *id.* at 26.

54 *Id.* at 24.

55 See *id.*

the testimony and affidavit of Victoria Otumfuor, a United States citizen and Pentecostal minister who was born and raised in Ghana.⁵⁶ The Court disregarded Ms. Otumfuor's lack of familiarity with the Nkumssa tribe's specific practices and accepted her testimony that Petitioner's account was consistent with her knowledge of the situation in Ghana generally.⁵⁷ Basing its decision solely on the testimony of Petitioner and Ms. Otumfuor, the Court concluded Petitioner's fear of FGM to be well-founded because it was sufficiently grounded in reality.⁵⁸

IV. Analysis

The instant Court granted Petitioner asylum "based solely on [her] fear of future persecution."⁵⁹ By doing this, the Court completely disregarded the standard set forth by the court in *Matter of R-* which mandated that to establish a well-founded fear of persecution the applicant must prove country-wide persecution or mistreatment by the central government.⁶⁰ The Court's failure to address the issue of whether Petitioner's persecution existed country-wide, which has been the source of many denials of asylum including the case of *Matter of R-*, is contrary to precedent.

Additionally, the Court criticized the BIA's strict standard for requiring evidence and accepted Petitioner's statements as fact.⁶¹ By placing such an emphasis on Petitioner's and Ms. Otumfuor's testimonies and affidavits and completely disregarding the need for additional evidence to prove a well-founded fear of persecution, the Court made it much easier to establish an asylum claim. However, the Court failed to acknowledge that the practice of FGM is prohibited in Ghana.⁶² The Court also did not recognize that because none of the tribe's elders had ever approached Petitioner about the possibility of her becoming Queen Mother, it is questionable whether Petitioner did in fact have a valid fear of FGM as punishment.⁶³ Thus, while there is no

⁵⁶ See *id.* at 25-26.

⁵⁷ See *id.*

⁵⁸ See *id.*

⁵⁹ See Davis, *supra* note 22, at 115.

⁶⁰ See *Matter of R-*, *supra* note 23 at 625 (BIA 1992).

⁶¹ See Anitto, *supra* note 28, at 796 (citing Karen Musalo, *Matter of R-A: An Analysis of the Decision and Its Implications*, 76 INTERPRETER RELEASED, 1177, 1186 (1999)). In regards to the amount of evidence needed to prove persecution, courts have agreed that the applicant "must show that the evidence he presented was so compelling that no reasonable factfinder could fail to find the requisite fear of persecution." *I.N.S. v. Elias-Zacarias*, 502 U.S. 478, 478-479 (1992).

⁶² See *supra* note 8.

⁶³ See Abankwah, 185 F.3d at 20. In the instant case, FGM was a punishment for a woman in the position of Queen Mother having engaged in premarital sex, whereas in Kasinga, FGM was a tribal tradition for all young female members of the tribe. See *id.*, See also *supra* note 32.

question that FGM is a severe form of persecution, the Court's failure to require substantial evidentiary support for Petitioner's claim makes the approval of asylum not only easier, but almost completely discretionary.

Another potential problem not addressed by the instant Court is the inadequacy of the current international and domestic U.S. law to provide a more appropriate basis for analyzing the unique problems of refugee women.⁶⁴ The lawful definition of "refugee" only encompasses individuals whose well-founded fear of persecution is "on account of race, religion, nationality, membership in a particular social group, or political opinion."⁶⁵ The refugee woman's particular needs are ignored, and she is forced to seek asylum based on previously defined categories that do not take into account gender-specific persecution such as FGM.⁶⁶ The *Kasinga* court admitted the applicant as a "refugee" because it found her to be a member of a particular social group.⁶⁷ While establishing FGM as a ground for asylum in future cases, the *Kasinga* court was forced to categorize the applicant into the existing definition of "refugee" under the law.⁶⁸

However, when the instant Court considered whether to grant Petitioner asylum, it completely omitted this aspect of the analysis. It stated that in order to grant Petitioner asylum, she must prove that she is a "refugee" by definition. In the end, the Court only applied the substantial evidence test set forth in *Melendez* and held that Petitioner

64 See Bret Thiele, *Persecution on Account of Gender: A Need for Refugee Law Reform*, 11 HASTINGS WOMEN'S L.J. 221, at 221 (2000). The condition of refugee women, who consist of the majority of refugees, is grave. See Henkin, *supra* note 8, at 405. According to the U.S. Committee for Refugees, World Refugee survey, "as of December 31, 1998, the world had some 13 million refugees." See *id.* As a matter of fact, women and girl child refugees constitute "eighty percent of the total world refugee population." UNITED NATIONS HIGH COMMISSIONER FOR THE HUMAN RIGHTS, *50th Anniversary of the Declaration of Human Rights* (last visited Oct. 6, 2000) at <http://www.unhcr.ch/html/50th/50kit2.htm>.

65 See Thiele, *supra* note 64, at 222 (citing Immigration and Nationality Act, 8 U.S.C.A. § 1101(a)(42)(A)(West 2000)). It is important to note that "sexual violence and other gender-related abuses can constitute persecution under the U.N. Refugee convention definition of refugee." Thiele, *supra* note 64, at 236 (citing AMNESTY INT'L, REFUGEES: HUMAN RIGHTS HAVE NO BORDERS 114 (1997)).

66 See Thiele, *supra* note 64, at 222.

67 *Kasinga*, 1996 WL 3798626, at *9-10.

68 The *Kasinga* decision is indicative of a recent trend to increase protection of refugee women. See Henkin, *supra* note 8, at 420. "That trend includes greater sensitivity to forms of persecution directed against women on account of race, religion, nationality, or political opinion. It also includes recognition of some forms of gender-based persecution under the rubric of persecution on account of membership in a particular social group." *Id.*

had a well-founded fear of persecution based solely upon that test.⁶⁹ Failing to establish that Petitioner was a member of a particular social group, the Court ignored another pertinent part of the analysis involved in granting asylum.⁷⁰

Although the instant Court granted asylum to Petitioner for fear of unwanted FGM, as the *Kasinga* court did, the instant Court failed to recognize the inherent differences between *Kasinga* and Petitioner.⁷¹ In *Kasinga*, the applicant's tribe performed FGM on all young female members of the tribe, as tribal tradition.⁷² In the instant case, FGM was not tribal tradition but a punishment for violating a sacred custom.⁷³ Unlike *Kasinga*, who would be subject to FGM by her tribe despite her actions, Petitioner would have never been exposed to FGM had she not knowingly and voluntarily violated her tribal law.⁷⁴ Thus, *Kasinga* needed international protection because of her membership in a particular social group that was persecuted, whereas Petitioner, by her own volition, brought FGM upon herself.

Conclusion

Based upon the facts, the instant Court improperly granted Petitioner asylum. As a result, the Court's decision will certainly impact future asylum cases, especially those involving claims based on FGM. Applying the instant decision, future applicants seeking asylum based upon their fear of having FGM inflicted upon them without their consent will have to meet a significantly lower threshold of proof. Strict adherence to the instant Court's standards allows an applicant to prevail in an asylum claim by providing the court with a merely plausible story, which could result in courts improperly granting asylum.

⁶⁹ See *Abankwah*, 185 F.3d at 22-23.

⁷⁰ See *id.* at 26.

⁷¹ See *id.*

⁷² *Kasinga*, 1996 WL 379826 at #2.

⁷³ See *Abankwah*, 185 F.3d at 20.

⁷⁴ See *id.*