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From the Los Angeles Times

Genital mutilation victim gets a new chance at asylum in U.S.

Attorney General Michael Mukasey intervenes in the case of a 28-year-old woman from Mali.

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WASHINGTON — In a surprise decision welcomed by human rights groups, the Justice Department moved Monday to expand the opportunities for asylum for women subjected to genital mutilation.

Atty. Gen. Michael B. Mukasey, a former federal judge, threw out a decision by an arm of the Justice Department denying asylum to a 28-year-old woman from Mali who had been subjected to genital mutilation as a girl.

Forms of genital mutilation -- often performed under unsanitary conditions with rudimentary instruments -- are common as coming-of-age rituals in more than two dozen countries.

The September 2007 ruling by the U.S. Board of Immigration Appeals and the panel's denial in April 2008 of a request for reconsideration had drawn criticism from immigration and refugee groups and medical ethicists. The board concluded that because the woman had already been mutilated, she no longer had a legitimate fear of further persecution, which is required under U.S. law before asylum can be granted.

But that decision, which was at odds with several federal courts, was replete with "legal and factual errors," Mukasey said in Monday's six-page order.

"To begin with, the board based its analysis on a false premise: that female genital mutilation is a 'one-time' act that cannot be repeated on the same women," he wrote. "As several courts have recognized, female genital mutilation is indeed capable of repletion."

He cited a case where an asylum applicant's vaginal opening was sewn shut five times after being opened to allow for sexual intercourse and childbirth.

"The board was wrong to focus on whether the future harm to life or freedom that [the applicant] feared would take the 'identical' form," he added.

The Malian woman had expressed concern that if she were deported she would be forced into marriage, and that any daughters she might have would also face mutilation.

Mukasey's decision to intervene came as the woman's case was being appealed to the U.S. 4th Circuit Court of Appeals in Virginia. His order -- that the immigration panel reconsider its position -- does not guarantee the woman permanent residency in the U.S., but legal observers said they doubted the agency would oppose the move.

"I think the response now is one of overwhelming relief and jubilation . . . and a feeling of hope that this will set a precedent for future cases," said Jen Smyers, a policy analyst with the immigration and refugee program at

Church World Service, a New York-based humanitarian cooperative of churches.

Kevin Johnson, an immigration specialist and dean of the UC Davis School of Law, said the action was something of a surprise.

"This administration has been pretty tough on women who claim persecution," he said. "It is a positive step in the right direction.

"It is not a particularly human gesture to turn your back on people who have been previously persecuted. It is not a particularly generous way of looking at our asylum laws."

Since 1996, the U.S. government has recognized female genital mutilation as a form of persecution that could entitle a woman to asylum in at least some cases.

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