



NY judges challenge government on appeal in asylum case

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By **LARRY NEUMEISTER**
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NEW YORK (AP) — Federal judges grew increasingly impatient and sometimes angry Tuesday as they questioned government lawyers on why the United States denied asylum to three women who suffered genital mutilation in Guinea.

The three judge panel of the 2nd U.S. Circuit Court of Appeals must decide whether the Board of Immigration Appeals was right to deny asylum to the women and permit them to be returned to Guinea.

The women remain in the U.S. while the case is pending. Two have been in the country since 2003, another since 1992. One woman said she feared her daughters would face mutilation if she was forced returned to Guinea, and her lawyers said as many as 95 percent of all women there are subjected to the practice.

At the hearing, the judges seemed particularly upset at a conclusion by the government that it was fair to return the women to Guinea because they could not suffer further persecution since mutilation had already occurred. At times, all three judges raised their voices or cut off lawyers to make a point.

Other asylum cases built on other forms of persecution did not require that the individual seeking asylum prove that the persecution could be repeated, the judges said.

"Supply me any case in which a well-founded fear of persecution was not sustained because the same leg couldn't be amputated or the same organ removed," demanded Judge Rosemary Pooler.

Pooler said there was evidence in the appeals record that genital mutilation was often one of a series of abuses aimed at controlling women and their sexual desires. She said a description of the dangers faced by women who undergo genital mutilation included threats of rape and beatings to control them and suppress their sexual desires.

Victims often suffer from psychological trauma, complications during childbirth and painful menstruation, lawyers for the women said.

The Center for Gender & Refugee Studies at the University of California, Hastings College of the Law, submitted a brief to the court saying that female genital mutilation was "usually just the beginning of an extended course of threats to life or freedom that women who have been victimized by the act can expect to face."

The group compared it to forced sterilization, saying genital mutilation "entails permanent and continuous harm."

The government attorneys agreed the practice was "awful."

"There's no question female genital mutilation is a horrendous act," said Department of Justice lawyer Michael Heyse.

After lengthy arguments, the judges ordered lawyers to submit written records to show if the government had ever encountered an asylum case that was denied on the grounds that the same leg could not be amputated twice or the same organ removed again.

Jessica Sherman, a Justice Department lawyer, said there was no evidence in the cases of the three women that the same individuals who harmed them would do so again.

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