

# **EMPOWERMENT THROUGH CHOICE: EXERCISING THE AFRICAN VOICE AGAINST FEMALE GENITAL CUTTING**



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**EMPOWERMENT THROUGH CHOICE: EXERCISING THE AFRICAN VOICE  
AGAINST FEMALE GENITAL CUTTING**

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**- ABSTRACT -**

Female genital cutting is a cultural tradition in most African cultures. Young girls and young women expect this procedure as a physical mark of membership to their community. Female genital cutting ranges from clitoridectomies to infibulations, yet all procedures involve the cutting of female genitalia. Cultural attitudes such as formation of the feminine, preservation of virginity, aesthetics, and others support the cultural continuation of this tradition. However, young girls and women undergoing the procedure are not immune to the physical, sexual, and psychological risks of female genital cutting. Consequently, female genital cutting is a serious cultural practice that must be examined within its cultural context.

When female genital cutting is examined from within the cultural context, some African women question the effectiveness of the tradition. In exerting their agency, they seek out alternative options in order to escape female genital cutting. The first option I propose is an international option; asylum is a valid option for women wishing to escape female genital cutting outside Africa. The second option I propose is a domestic option; resistance efforts work with African women's voices in an attempt to resist female genital cutting within their cultures. Even though these options are viable to African women desiring lives free from female genital cutting, I argue that it is in their best interest to first attempt resistance efforts and then seek asylum when all other options have been tried. Accordingly, I propose a questionnaire that serves as a tool for consciousness-raising. With this questionnaire, it is my hope that African women determine which option is most appropriate for them.

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-SLS

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## - INTRODUCTION -

“Being oppressed means the *absence of choices*.”<sup>1</sup>

With agency, personal choice, and freedom comes responsibility to use one’s personal power. Agency provides the individual with desired choices that fit the individual’s best interests. However, personal power is dependent on the freedoms that one is afforded. If an individual is limited in their choices, they must work harder to find freedoms. The choices within freedom are presented to one’s agency, which in turn translates the choices into how applicable they are to the individual’s situation. Yet, the system of agency, personal choice, and freedom are seemingly irrelevant without discussing quality of life. When one embraces agency and freedom, one also embraces a good quality of life. Quality of life forces individuals to examine their values and belief systems so they see what is beneficial for a good life.

Although the quality of life concept is universal to all individuals, it is of particular interest how agency and personal choice applies to African women. Despite the universal nature of quality of life, it is culturally dependent. Women in one culture view their quality of life differently than women in another culture because they hold different cultural values. In the particular context of African women, this ethnic community holds a unique quality of life because they live within the conditions of female genital cutting. Accordingly, any damaging factors to women’s quality of life also become culturally dependent. Those outside the situation of female genital cutting most likely believe African women live in oppressed conditions; outsiders believe that female genital cutting is oppressive to those living in Africa. On the contrary, African women argue for the

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<sup>1</sup> bell hooks, *Feminist Theory; from Margin to Center*, 2<sup>nd</sup> Ed (Cambridge, MA: South End Press, 2000), 5.

cultural relevancy of female genital cutting because they exercise their personal agency in ownership of the cultural practice. Thus, African women's quality of life is dependent on how agency and freedom enforce quality of life.

When African women use their personal power to determine that female genital cutting damages their quality of life, African women use their agency to determine other options. One option is for African women to go outside their borders and look for new choices and freedoms in other countries. Another option is for African women to exert their personal agency and create new choices and freedoms within their culture. However, African women must determine how to escape female genital cutting for themselves.

Consciousness-raising of other alternatives to female genital cutting is the goal of my questionnaire aimed at African women. This questionnaire provides a limitless survey of values that support women's personal power in choosing quality of life. Based on the current circumstances of female genital cutting and international and domestic options available to African women, the proposed questionnaire aims to empower African women using their own agency and voice.

In order to support this argument, chapter one presents an overview of female genital cutting. This chapter includes an exploration into the practice itself, an overview of the cultural attitudes that support the cultural tradition, and lastly, a discussion of the debates surrounding the issue. Next, chapter two presents asylum as the international option available to African women wishing to escape female genital cutting; this chapter includes an overview of asylum terminology and conceptual definitions, a review of the development and history of asylum law, and a comparison of current asylum policies in

select countries. Chapter three follows the international option of asylum law by presenting the specific case law of *In re Kasinga* where one African woman gained asylum in order to flee female genital cutting in Togo.

In contrast to the previous two chapters, chapter four focuses on resistance efforts as the domestic option available to African women wishing to work against female genital cutting within their own countries. This chapter breaks down resistance efforts into a discussion of government or legal resistance efforts and sociocultural resistance efforts. Next, chapter five follows the domestic option of resistance efforts by examining the legal resistance effort example of medicalization and the sociocultural resistance effort of alternative rite-of-passage ceremonies or alternative cutting rituals. After exploring the two options available to African women, chapter six is an evaluation of the international and domestic options. Lastly, chapter seven introduces a proposed questionnaire to serve as a tool for consciousness-raising among African women.

## **- OVERVIEW OF FEMALE GENITAL CUTTING -**

As the potential factor for damaging African women's quality of life, female genital cutting must be explored in its entirety. The practice must not only be examined by itself, but the factors that allow it to continue should also be discussed. Consequently, this chapter describes the situation in Africa that establishes the need for options. First, I present an overview of the practice of female genital cutting. Secondly, I explore the cultural attitudes that create an environment for female genital cutting. Lastly, I examine the debates surrounding this cultural practice. I conclude that the practice itself, the cultural attitudes, and the debates are all contributing factors to the situation leading African women to seek alternative options.

### **THE PRACTICE OF FEMALE GENITAL CUTTING (FGC)**

The first contributing factor to the situation in Africa is the practice of female genital cutting itself. Although it may seem obvious that the practice is a contributing factor, the extent of the practice may not be so apparent. The history and origin of female genital cutting has been developing in Africa for many generations. The geography of the practice reveals a wide distribution across Africa. The types of female genital cutting offer ways in which the practice differentiates itself in various contexts. Lastly, the immediate aftermath and long-term effects leave inescapable, life-long physical and psychological trauma on the women and young girls who undergo the practice.

#### **History/Origin of the Practice**

Although female genital cutting has only been brought into current debate in the places where it is not commonly performed, this cultural practice has a rich history throughout the ages. Even though the practice is mostly associated in modern times

within the African continent, female genital cutting has origins in several cultures and regions of the world. From a historical perspective, there were short-term practices that had similar goals of female genital cutting such as restricting women's sex drives.

According to Koso-Thomas, female genital cutting goes back to at least the Roman era where earlier versions of the practice took forms such as

The early Roman technique of slipping rings through the labia majora of their female slaves to prevent them from becoming pregnant, removed some of the social consequences of sex without affecting sexuality or inducing permanent mutilation.<sup>2</sup>

Another historical practice similar to the Roman technique was

the chastity belt, introduced in Europe in the 12<sup>th</sup> Century by the Crusaders was intended as a barrier against unlawful or unsanctioned sex rather than a suppressant acting through any induced physiological change.<sup>3</sup>

Subsequently, mutilation and the sexual repression of women has been occurring throughout history from a variety of cultures and religions. Although it is nearly impossible to pinpoint a specific time in history, it was not until female genital cutting was consistently performed in Africa that this practice had transitioned into long-term practices with surgical procedures.

Even though many regions of the world are believed to be the birthplace of this practice, the balance of evidence suggests that female genital cutting has its origins in Africa. From as early as ancient civilizations, "Circumcision of women was practiced in Ancient Egypt, as the evidence of female mummies from 200 BC has demonstrated."<sup>4</sup>

Archaeological evidence proves that the genital cutting of women occurred within Africa

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<sup>2</sup> Olayinka Koso-Thomas, *The Circumcision of Women: A Strategy for Eradication* (London: Zed Books Ltd., 1987), 15.

<sup>3</sup> Ibid.

<sup>4</sup> Asma El Dareer, *Woman, Why Do You Weep? Circumcision and Its Consequences* (London: Zed Press, 1982), iii.

even prior to the era of kingdoms and modern civilizations, thus showing that this practice has endured for centuries. In addition to archaeological evidence, it is believed that female genital cutting “...could have been an old African puberty rite that came to Egypt by diffusion (infibulation is known in the Sudan as ‘Pharaonic circumcision’ and in Egypt it is referred to as ‘Sudanese circumcision’).”<sup>5</sup> The tradition of female genital cutting could have been shared between cultures in order to perpetuate the practice; this spread of traditional values was due to diffusion, the process by which cultural values are transferred and shared across geographic regions. In addition to diffusion of cultural ideals, religion was also a factor in the spread of female genital cutting in Africa. Many scholars believe the practice originated with the beginning of Islam in the 7<sup>th</sup> century AD.<sup>6</sup> The term *sunna circumcision* comes from the Islamic term *sunna*, which describes “...a set of traditions derived from the words and acts of the Prophet Mohamed [that] [*sic*] have undergone changes over a long period of time.”<sup>7</sup> With the spread of Islam mixing with indigenous cultural practices in addition to the archaeological evidence found within Egypt, female genital cutting has a strong sense of belonging and derivation in Africa.

### **Geography/Location of the Practice**

Since most of the literature was written before 2000, much of the geographical data for the practice of female genital cutting leaves out recent frequency changes due to policy changes and women’s movements. Nonetheless, these older numbers inform unaware outsiders of regional and cultural tendencies for where in the world this procedure occurs. In general, female genital cutting is practiced by women throughout the

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<sup>5</sup> Efua Dorkenoo and Scilla Elworthy, *Female Genital Mutilation: Proposals for Change* (London: Manchester Free Press, 1992), 12.

<sup>6</sup> Raqiya Haji Dualeh Abdalla, *Sisters in Affliction; Circumcision and Infibulation of Women in Africa* (London: Zed Press, 1982), 30.

<sup>7</sup> *Ibid*, 32.

major regions of the world such as Asia, Europe, the Middle East, Latin America, and Africa. Although most scholarship centers on the cultural practices within Africa, the presence of female genital cutting in other worldly arenas raises the need for awareness of its frequency. There is debate as to whether the practices in Asia, Europe, the Middle East, and Latin America are truly isolated procedures or if the procedures are influenced by the African form of female genital cutting. Therefore, it is necessary to examine the location of the practice as an influence on the development of the practice.

In the international community, the first global region where female genital cutting is practiced is Asia. The dominant reason for the occurrence of this practice in Asia is due to the prevalence of Islam in this region. According to Fran P. Hosken, the Islamic version of female genital cutting was brought to Asia when Islam was introduced to the region; thus, the practice was not native to the land.<sup>8</sup> Consequently, female genital cutting occurs mostly in the Islamic populations of Indonesia and Malaysia. The general trend of these female genital cutting procedures is to be less severe than those within Africa because they are most often concerned with the ritual pricking of the clitoris<sup>9</sup> instead of permanently cutting it out in its entirety. Muslims in other Asian countries also practice female genital cutting, yet there is not enough evidence to report the number of occurrences in these areas.

In addition to Asia, the Middle East is another region of the world where female genital cutting occurs. Like Asia, the countries that perform female genital cutting have Islamic populations; thus, the procedure is associated with life cycle stages such as marriage and childbirth. The four countries where there are documented practices of

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<sup>8</sup> Fran P. Hosken, *The Hosken Report: Genital and Sexual Mutilation of Females*, 4<sup>th</sup> ed. (Lexington, MA: Women's International Network News, 1993), 279.

<sup>9</sup> Abdalla, 16.

female genital cutting are the United Arab Emirates, Southern Yemen, Bahrain, and Oman.<sup>10</sup> The majority of female genital cutting cases in this part of the world are similar to excision, which is explained in detail later in the chapter. Moreover, Middle Eastern practices are different from those of other areas of the world because of the Arabic practice of putting salt on the vagina of women after childbirth; similar to the purpose of female genital cutting in some instances, the purpose of this practice is “...to restore the vagina to its pre-childbirth dimensions and make intercourse more pleasurable for the husband.”<sup>11</sup> Although this procedure is separate from female genital cutting, it creates a similar cultural attitude towards women in the Middle East.

In addition to Asia and the Middle East, areas of Latin America also show evidence of the practicing forms of female genital cutting. This region of the world is where there is the least documentation of female genital cutting. However, there is evidence that these procedures occur in Brazil, Eastern Mexico, and Peru. What little research has been done on female genital cutting in Latin America is centered on Brazil where it is believed to have been “...transported there by West African ethnic groups who were resettled there after the abolition of the slave trade in the 19<sup>th</sup> Century.”<sup>12</sup> Although there is a strong connection of Islamic influence to female genital cutting in certain areas of the world, it is not determined whether these procedures were brought to Latin America by Muslim Africans. The prevalence of female genital cutting in Latin America is not native to the land but adopted by migrant populations.

Although more documentation exists for these cutting procedures, female genital cutting in the Western world has a similar trend to Latin America. The majority of the

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<sup>10</sup> Koso-Thomas, 17.

<sup>11</sup> Hosken, 275.

<sup>12</sup> Koso-Thomas, 17.

practices of female genital cutting in the Western world are due to immigrants living in these areas who want to preserve their native cultural rituals. According to Amnesty International, female genital cutting procedures are documented in Australia, Canada, Denmark, France, Italy, the Netherlands, Sweden, the United Kingdom, and the United States. One reason for this wide range is that these countries often accept African refugees who wish for their young daughters to undergo their cultural traditions. Consequently, there are many reports of illegal surgeries in Canada and France where African immigrant families have either pursued female genital cutting surgeries through national physicians or through native women who will perform the procedure.<sup>13</sup> These illegal female genital cutting surgeries have also led to judgments based on socially-approved values in the United States as evident by its coverage in the media.

However, the African continent is where most female genital cutting currently takes place. Many scholars argue that Africa is the birthplace of this practice; thus, it is only natural that Africa has the highest prevalence rate of female genital cutting procedures. However, it is imperative to note that not all African countries perform the practices in the same way nor do they have the same prevalence rates. Amnesty International reports that female genital cutting is practiced in more than 28 countries in Africa.<sup>14</sup> Yet, this figure is misleading because there are 52 countries in Africa where with the difficulties of documentation, female genital cutting has not been reported. The countries with the greatest frequency of female genital cutting occurrences are Somalia (98%), Djibouti (95-98%), Egypt (97%), Mali (90-94%), and Sierra Leone, Ethiopia and

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<sup>13</sup> Amnesty International, "Female Genital Mutilation- A Human Rights Information Pack," <http://www.amnesty.org/ailib/intcam/femgen/fgm1.htm>.

<sup>14</sup> Ibid.

Eritrea (all 90% respectively) to name a few.<sup>15</sup> More severe forms of these procedures, such as clitoridectomies and excisions, are mostly practiced in Western Africa across Central Africa; moreover, the most severe type of cutting, infibulation, occurs more regularly in Mali, Sudan, Somalia, parts of Ethiopia, and northern Nigeria.<sup>16</sup> The African countries that have been studied the most and represented in the literature most frequently are the Sudan, Somalia, Egypt, Ethiopia, Kenya, Nigeria, Mali, Burkina Faso, Sierra Leone, and Senegal.

### **Types of Female Genital Cutting (FGC)**

Despite the connotations associated with naming the types of female genital cutting, which is discussed further in the chapter, the first type of cutting is known as a clitoridectomy. As the least severe of the three types, it is commonly referred to as either a circumcision or a clitoridectomy because it is where the hood and tip of the clitoris is cut.<sup>17</sup> The cutting of the clitoris' hood is associated with circumcision because it removes the skin covering the clitoris itself, which is similar to male circumcision's removal of the foreskin from the penis. In countries where this procedure is associated with Muslim populations, this type of female genital cutting is referred to as *sunna* circumcision because it is believed that Muslim tradition informs the ritual.<sup>18</sup> Because this type of cutting involves only the clitoris, it is the least harmful of the three types.

The second type of female genital cutting is excision. Like the first type of cutting, the practice associated with excision is also often labeled as a clitoridectomy. However, what separates this second type of clitoridectomy is that an excision involves

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<sup>15</sup> Ellen Gruenbaum, *The Female Circumcision Controversy: An Anthropological Perspective* (Philadelphia: University of Pennsylvania Press, 2001), 8.

<sup>16</sup> Koso-Thomas, 17.

<sup>17</sup> Dorkenoo and Elworthy, 7.

<sup>18</sup> Abdalla, 8.

much more cutting than the clitoridectomy discussed in the first type. Excisions involve the “...the removal of the prepuce, the clitoris, and usually most or part of the labia minora, or inner lips.”<sup>19</sup> This type is the second most severe because the labia majora and the rest of the vulva are still uncut. Moreover, this type of female genital cutting is usually not associated with a specific religious practice; yet, any Islamic practice can interpret this form to be *sunna*. As a more prevalent form of practice, it is reported that excision composes roughly 85 percent of all female genital cutting.<sup>20</sup>

The last type of female genital cutting is the most severe and harmful due to the extent of tissue removal. This type is commonly referred to as infibulation, which involves

the removal of the prepuce, the whole of labiae minora and majora, and the stitching together (suturing) of the two sides of the vulva leaving a very small orifice to permit the flow of urine and menstrual discharge.<sup>21</sup>

Because the girl’s vaginal opening is sewn up so tightly, infibulation has more long-lasting effects than the first and second types. In order for the young girl to have sexual intercourse later in life, she must be opened up for her husband for the sole purpose of reproduction. Moreover, the woman will be sewn back up again after each pregnancy; thus, she will experience part of her infibulation procedure for the rest of her life.

According to Amnesty International, approximately 15 percent of all female genital cutting procedures in Africa are infibulations.<sup>22</sup> In countries with Islamic populations, there is a greater prevalence of this type. Similar to the religious influence in naming the first type of cutting, infibulations are also known as *pharaonic* circumcisions mostly in

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<sup>19</sup> Gruenbaum, 2.

<sup>20</sup> Nahid Toubia, *Female Genital Mutilation; A Call for Global Action*, 2d ed. (New York: RAINBOW, 1995), 10.

<sup>21</sup> Koso-Thomas, 17.

<sup>22</sup> Amnesty International.

Somalia and Sudan.<sup>23</sup> A *pharaonic* circumcision also refers to the massive scale of this type of procedure.

### **Effects/Aftermath of the Practice**

Before examining the physical and sexual effects of female genital cutting, it is worth noting how the literature outlines this information. Some scholars distinguish between intermediate and long-term complications that arise from these procedures. Another method that scholars use to lay out the physical and sexual effects is by connecting the symptoms to the specific type of procedure; for example, the more severe infibulation procedures cause more complications. In addition, some scholars seem to gloss over the uniqueness of female genital cutting because they refer to the symptoms like any other medical procedure. Moreover, some scholars arrange the complications according to life cycle stages because the procedures are often performed again after each childbirth. Consequently, it is difficult to determine the true physical and sexual effects for female genital cutting because the scholarship unknowingly reveals presumptions of victimization in its presentation.

Nonetheless, there is a tendency for all physical complications of female genital cutting to be separated from the sexual complications. Most often these physical effects are distinguished by their immediacy after the procedure. Therefore, immediate complications include pain, hemorrhage, shock, acute urinary retention, urinary infection, septicemia, fever, tetanus, and even death. After the immediate complications, other symptoms that may arise are a delay in healing, pelvic infection, dysmenorrhea, cysts and abscesses, keloid scar, dyspareunia, haematocolpos, recurrent urinary tract infections, difficulty in urinating, calculus/stone formation, hypersensitivity, and anal incontinence

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<sup>23</sup> Abdalla, 10.

and fissure.<sup>24</sup> There is also the potential physical complication of disfigurement which could arise from the “bad eyesight of the operator or the resistance of the child caus[ing] cuts in other organs: the urethra, the bladder (resulting in urine retention and bladder infection), the anal sphincter, vaginal walls or Bartholin’s glands).”<sup>25</sup> Furthermore, the amount of bleeding from the procedure creates the potential for HIV infection because the tools used on one girl are shared with many other girls and procedures.

In addition to the physical complications of female genital cutting, the sexual difficulties that occur are very detrimental to young girls as they go through life. One immediate sexual symptom is that a young girl or woman cannot pleasure herself because the nerve endings that would normally stimulate her have been damaged. Moreover, the sexual complications of female genital cutting are most apparent when infibulations are the type of procedure practiced. Because excisions involve the sewing together of the vaginal walls, it is often the case that the girl must be reopened in order to have sexual intercourse with her husband for the first time; this can lead to a painful intercourse experience and difficulty in having an orgasm.<sup>26</sup> Infibulated women must also continue experiencing their sexual and physical symptoms throughout their fertile (if so) years because they will have to endure larger cuts each time they give birth to a child; this implies a cycle of cutting open and sewing shut of their vaginal openings for only sexual purposes.<sup>27</sup> Because the purpose of female genital cutting is to preserve a culturally-specific female sexuality, it is ironic that the complications of this procedure will result in sexual difficulties for women.

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<sup>24</sup> Koso-Thomas, 25-26.

<sup>25</sup> Dorkenoo and Elworthy, 8.

<sup>26</sup> Hosken, 37.

<sup>27</sup> Toubia, 15.

Because the sexual symptoms that arise from female genital cutting are often internalized by women, the emotional and psychological symptoms of this practice can also be devastating. Because clinical evidence is difficult to find, there have been personal reports of anxiety, fear, shock, humiliation, and betrayal by family.<sup>28</sup> Moreover, the very fact of genital cutting can be psychologically damaging because a young girl might not understand the social meaning of her body, which belongs to a culturally-relevant procedure. Manifesting the pain of the operation while several family members are present can be humiliating. An inner conflict may also lead to psychological distress; the girl may not want to be genitally cut, yet she may not want to disappoint her family and her future husband.<sup>29</sup> Beyond the psychological effects of cutting, there are emotional symptoms of dealing with an obstruction to enjoying one's sexuality through orgasm or painful intercourse. Consequently, the sexual and physical complications of female genital cutting increase the likelihood of emotional and psychological symptoms.

In addition to the lasting impression that these effects leave on young women, the practice of female genital cutting continues to be a constant weight on African culture. Female genital cutting has a rich history within Africa as evident by its locations and prevalence rates. Its various types also show how the practice impacts African society and its multiple cultures depending on the degree of procedure. Consequently, the practice of female genital cutting is one important factor in contributing to the situation in Africa where African women seek asylum elsewhere.

### **THE CULTURAL ATTITUDES**

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<sup>28</sup> Amnesty International.

<sup>29</sup> Dorkenoo and Elworthy, 10.

Having established the prevalence of the practice of female genital cutting in Africa that leads to African women to question their routine procedures, it is necessary now to shift our focus to the cultural attitudes that support this procedure. Although the practice sheds much light on creating an atmosphere for African women to question their quality of life, it is only one component; cultural attitudes within African communities are just as significant in adding to the prevalence rates of female genital cutting. Because culture is such a complex term to explain the values of a group of individuals, these attitudes can be broken down further into two groups. The first group of attitudes represents cultural institutions that establish universal behaviors and expectations, which lay out the construction for these culturally approved values and morals. The second set of attitudes is linked together because they represent the cultural values or morals that fuel the continuation of female genital cutting. In this section, I seek to portray an environment in which certain cultural attitudes are one contributing factor for African women escaping their indigenous cultures in search of asylum elsewhere.

### **Cultural Institutions**

The first cultural institution to set the foundation for culturally-specific universal behaviors and expectations is gender. First and foremost, the cultural institution of gender informs other cultural institutions such as identity and ethnicity, but these institutions will be examined later. Gender is a cultural institution because it establishes cultural values for how the sexed body will be interpreted in each culture. In summary, gender is sex with culture applied. Feminist philosopher Gatens employs the term “imaginary body”<sup>30</sup> to describe the physical self imprinted with cultural significance. Moreover, Gatens

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<sup>30</sup> Moira Gatens, *Imaginary Bodies* (London: Routledge, 1996), 12.

further explores her terminology in establishing the conflict between being feminine and being woman; she argues that

This body image is a double of sorts which allows us to imagine and reflect upon ourselves in our present situations – to be in a sense our own ‘other’ but it is also involved in what allows us to project ourselves into future situations and back to past situations... Our body image is a body double that can be as ‘other’ to us as any genuine ‘other’ can be.<sup>31</sup>

The body image is separate from the physical body because it allows for cultural practices to mutilate and alter the physical manifestation of the body without truly destroying the core of the physical or truthful body. The body image acts as a cover for the physical existence of the body so that cultural practices may be seen as effective. Moreover, certain cultures practice physical modification as the manifestation of gender; in many cases, women are not culturally recognized as women until they become modified. Writing from feminist, cultural, and social anthropological perspectives, Aud Talle examines how Somali culture creates gender through female genital cutting procedures. Talle’s research explains that Somali women and men become gendered through cultural processes such as this physical alteration of the genitals. Talle’s argument reasons that

the surgery changes the outer ‘sex’ of the woman and makes her into a ‘man’, a pure agnate. This may seem a contradiction in that the same act that takes away male parts from the female pudenda to make women more feminine and clean also creates an imaginary male. Infibulation as a cultural device then constitutes gender both as segregates and hierarchical in that the distinction between female and male images is sharpened, and is transformative and processual, as these images may also merge into and replace each other. The performance is a forceful symbol of belonging.<sup>32</sup>

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<sup>31</sup> Ibid, 35.

<sup>32</sup> Aud Talle, “Transforming Women into ‘Pure’ Agnates: Aspects of Female Infibulation in Somalia,” in *Carved Flesh Cast Selves: Gendered Symbols and Social Practices*, Cross-Cultural Perspectives on Women, vol. 8, eds. Vigdis Broch-Due, Ingrid Rudie, and Tone Bleie (Oxford: Berg Publishers, 1993), 98.

Although Talle is discussing how female genital cutting procedures such as infibulation establish gender differences in Somali culture, it is also significant to recognize that this physical aspect of gender informs how men use women's gender to their own advantage. Breaking the infibulation shows the masculinity of men because it continues the gender roles and kinship structures, which are created by manipulating women's bodies. Talle posits that

At defibulation the man is not only creating a 'woman', he is at the same time creating himself as a 'man'. In the sexual act the wife-husband (*naag-nin*) pair is constituted. As a non-virgin, she becomes a fertile woman, a potential mother. He, as a married man, may now join the lineage assembly (*shir*) and become a politically active and full member of his society. At this point in their lives they are both pure and gendered persons, ready to produce offspring.<sup>33</sup>

Consequently, women and men are created through this physical process. The case of Somali culture as well as the body image and imaginary body represent the way in which the cultural institution of gender allows for a prevalence of female genital cutting practices in Africa.

The next cultural institution that establishes a general approval for female genital cutting procedures is identity or ethnicity. Because there are so many ethnic groups within Africa, ethnicity is often equated with identifying an individual. Moreover, identity and ethnicity are cultural institutions because they work in a relationship with other cultural institutions to produce culturally-specific universal behaviors and ethics. In many cases, identity results from the dichotomies that are created in other cultural values or institutions; thus, the institutional structure of identity has an "other" component. In many cultures, women are seen as the other identity, which allows for their cultural value to be lower than the dominant group in most morals. Yet, the institution of identity

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<sup>33</sup> Ibid, 103.

manifests itself in another way; although often looked at as a firm and unchanging institution, identity changes throughout the life cycle in certain cultures. Initiation ceremonies are one example of how identity develops with cultural significance. Koso-Thomas examines how the secret initiation societies in Sierra Leone provide young girls with new identities into womanhood. In these secret societies, female genital cutting procedures are performed within societies such as the Bundo or Sande.<sup>34</sup> Once these young girls spend time within these secret communities and undergo the proper initiation ceremonies, including female genital cutting, they are culturally identified as women within their greater community. In addition to the change in identity within various cultures, identity or ethnicity also influences cultural status. Anthropologist Gruenbaum writes

Differences in circumcision practices by ethnicity sometimes follow the pattern that the more severe female circumcision is practiced by higher status ethnic groups. Not only might this serve to preserve the practice, but it could bolster ethnic identity and the social boundaries associated with ethnic difference in a multicultural society.<sup>35</sup>

One's status and cultural identity or ethnicity is determined by the degree of female genital cutting practices. Therefore, the cultural institution of identity and ethnicity places individuals within their culture and gives them human value.

Lastly, work is a cultural institution that enforces the cultural approval of female genital cutting practices in Africa. Similar to the other cultural institutions, work as a cultural institution is influenced by other culturally-specific universals such as gender and identity. Moreover, work is a cultural institution that combines cultural expectations of many values into something utilitarian in society. In this discussion, work manifests itself

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<sup>34</sup> Koso-Thomas, 13.

<sup>35</sup> Gruenbaum, 104.

in modes of production and divisions of labor. For Karen Sacks, a Marxist feminist writing about anthropology, women are associated with a unique type of mode of production: the mode of *re*production. Women's work becomes a mode of production where reproduction gives them value within their culture. According to a mode of reproduction, Sacks distinguishes between motherhood (a cultural universal) and the way that women add to the economic development of their culture through "subsistence,"<sup>36</sup> which varies by culture. Motherhood and the roles that motherhood follows are found in every culture, yet it is the other roles that women are obliged to perform that inform their cultural significance of work. Furthermore, Sacks argues that

Women have combined motherhood with the exercise of political power and authority not quite so massively and universally as they have combined it with production, but it has been a rather commonplace and routine combination nonetheless...In African modes of production, the combination of motherhood with power and authority was as logical as it has been antithetical to the industrial capitalist mode of production.<sup>37</sup>

Motherhood is solely women's work in many African cultures, which creates an environment for women to be worth anything only if they follow this mode of reproduction. This mode of reproduction also informs the sexual division of labor in which women are placed within culturally-valued arenas of labor. Social and feminist anthropologist Moore analyzes the sexual division of labor present in many cultures. In most cases, women's work is in the home where she cares for her family. This shows that women's work is only valuable in relation to others; women's work is not valuable to women in itself because a woman's laborious attempt to improve her own situation does not exist in these cultures nor is it culturally acceptable.

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<sup>36</sup> Karen Sacks, *Sisters and Wives; The Past and Future of Sexual Equality. Contribution to Women's Studies 10* (Westport, Connecticut: Greenwood Press, 1979), 67.

<sup>37</sup> *Ibid*, 71-72.

### **Cultural Morals/Values**

The first cultural value that creates an atmosphere for the cultural acceptance of female genital cutting procedures is aesthetics or beauty. Cultures view aesthetics or beauty differently, so it is only natural that what may be beautiful to one culture is considered hideous to another. Consequently, it is necessary to view African culture's value of beauty as an independent value because any biases in the perspective would ruin the appreciation of this culturally-held belief. In many cases, African cultures seek to alter or modify the appearance of their ethnic group members in order to differentiate themselves from other groups. Moreover, this body modification is also another way of manifesting cultural values of beauty through which women are often the targets.

According to anthropologist Ellen Gruenbaum

The human desire to shape and decorate the body to accomplish a culture's aesthetic ideals is part of what is at work in the case of female circumcision practices. If one has grown up with an understanding of a generally practiced alteration as normal and other manifestations as abnormal, it is not difficult to predict that aesthetic norms will follow and that the altered state will be considered more beautiful than the unaltered.<sup>38</sup>

The practice of female genital cutting is a manner in which African cultures show their valuing of beauty, in which women's genitals also have aesthetic value. It can be assumed that women's genitals are given more aesthetic value in African cultures because African cultures also value sexuality differently than other cultures, but this is a generalization and supposition. Gruenbaum further states that "For those who practice infibulation, the resulting vulva is something they are used to and it therefore seems beautiful, even if people outside the experience find it repulsive."<sup>39</sup> Although this does not determine what African cultures find beautiful, other values inform this value of

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<sup>38</sup> Gruenbaum, 73.

<sup>39</sup> Ibid.

aesthetics. How African cultures value sexuality, virginity, and even gender all influence how African cultures value aesthetics. More importantly, these values all inform how African cultures value feminine beauty in its cultural context.

The second cultural value to add to this environment is economic dependency or economic status. This value is linked very closely with the cultural institution of work and gender, yet it is different because of how women are applied to this cultural moral. In many cultures, women have various roles within their society: wife, sister, daughter, worker, producer, etc. A woman's work will always be her role in society given the social, economic, and political values her culture holds.<sup>40</sup> However, motherhood is an established cultural universal; consequently, women will always have value because of the potential of becoming a mother. According to social anthropologist Henrietta Moore

The concept of 'mother' is not merely given in natural processes (pregnancy, birth, lactation, nurturance), but is a cultural construction which different societies build up and elaborate in different ways...It is also a matter of how the category 'women' in each culture is linked to such attributes of motherhood as fertility, naturalness, maternal love, nurturance, life-giving, and reproduction.<sup>41</sup>

A woman's job as mother is not necessarily defined by biological processes; this could potentially contradict the purpose of female genital cutting practices, which is to maintain a woman's social role of being ready to continue the life legacy of her husband. In addition to the cultural value of motherhood, which establishes the economic dependence of women on others, women's economic status changes based on other cultural changes. Given the change of the economy and household structure,<sup>42</sup> women's economic status or value to her society changes. As society depends more on her involvement in the

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<sup>40</sup> Henrietta L. Moore, *Feminism and Anthropology* (Minneapolis: University of Minnesota Press, 1988), 42.

<sup>41</sup> *Ibid*, 25.

<sup>42</sup> *Ibid*, 123.

economy through her potential to work outside the home in the formal as well as the informal sectors, her work is given more value and consequently, she is given more status. However, it is still society (which is largely male dominated) that controls this dependency and change in her status. Because women's economic dependence and status is dependent on cultural change and dominant social controllers, women's economic value is at risk in their own culture despite their own significant role in continuing the generational line.

Sexuality is the third cultural value that adds to the cultural approval of female genital cutting practices. Although sexuality is often associated with other values or constructions such as gender and identity, the cultural value of sexuality discussed here is associated with politics. Moreover, this type of sexuality has its root in power structures. The power that is associated with this value of sexuality presents itself to culture in two ways: a physical body and a logical dichotomy. The first presentation of power is associated with the physical body; when culture influences this body, it becomes a new entity. This new entity is what feminist philosopher Moira Gatens identifies as the "body politic,"<sup>43</sup> which is the corporeal manifestation of power in society. According to Gatens

the unified body politic has functioned to achieve two important effects. First, the artificial man incorporates and so controls and regulates women's bodies in a manner which does not undermine his claim to autonomy, since her contributions are neither visible nor acknowledged. Second, in so far as he can maintain this apparent unity through incorporation, he is not required to acknowledge difference. The metaphor functions to restrict our political vocabulary to one voice only: a voice that can speak of only *one* body, *one* reason, and *one* ethic.<sup>44</sup>

Women become separate from this unified body politic because they cannot be seen as agents of choice and free will; they cannot follow in this distinguishing characteristic of

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<sup>43</sup> Gatens, 21.

<sup>44</sup> Ibid, 23.

society, so they are not seen as citizens, not seen as full people. Thus, women are naturally trapped into a dichotomy of being less than men because of their sexuality. This power dichotomy is seen as one expressing dominant and submissive individuals within culture or society; in this case, women become the submissive group and men become the dominant group. Feminist philosopher Sandra Bartky argues that

In a sexually inegalitarian society, these manifestations of male power are precisely the instruments by which men are able to accomplish the subordination of women. Hence, insofar as male power is eroticized, male dominance itself becomes erotically charged.<sup>45</sup>

In Bartky's discussion, she eroticizes male dominance as almost pornographic because there is no mistaking the sexual inequality of women. Moreover, this power dichotomy also distinguishes between normative and abnormal sexuality by which sexual performance and identity is practiced in culture. Bartky contends that

Individuals are 'positively reinforced,' i.e., rewarded, when they model their behavior on images and activities held out to them as normal and desirable, 'negatively reinforced', i.e., punished, when their modeling behavior is done incorrectly or not done at all.<sup>46</sup>

This implies that there is a culturally "normal" sexuality, which is rewarded by the dominant members of society. Attributed to female genital cutting procedures, these practices achieve these cultural norms of sexuality, which are in turn either rewarded if completed by status and acceptance; if not completed, the woman is usually punished in some way through social rejection. Therefore, physical body and logical dichotomy inform each other to create power structures, which determine the cultural values of women's sexuality.

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<sup>45</sup> Sandra Lee Bartky, *Femininity and Domination; Studies in the Phenomenology of Oppression- Thinking Gender* (New York: Routledge, 1990), 47.

<sup>46</sup> *Ibid*, 55.

The last cultural value to be reviewed is virginity, which is closely related to cultural values of sexuality and economic status. Based on the cultural value of sexuality, which determines that women are inferior to men in society, women's sexuality comes under the control of men. Consequently, the cultural value of sexual intercourse is for the purpose of continuing familial generations and for male pleasure. In many cultures, especially Muslim-practicing cultures, virginity is equated with marriageability and honor to the girl's family. From an anthropological perspective Gruenbaum argues that

For groups that practice pharaonic circumcision, the circumcision itself is taken as proof that the young woman must be a virgin. The common explanation is that the infibulated vulva forms a 'natural' barrier of flesh, making penetration nearly impossible, a difficulty many a newly married couple must deal with in the days, weeks, or months of attempted consummation.<sup>47</sup>

Because virginity is a cultural value in many African cultures, it allows for female genital cutting procedures to occur. In the case of Sierra Leone, secret societies of initiation apply this cultural value of virginity. According to Koso-Thomas

[Bundo] tradition stipulates that a girl who has not been initiated must not have sexual relations; it is considered most important that at the time of her initiation a girl must be a virgin...The strong emphasis on virginity before initiation, leads to an assumption by the girls that once initiated they are free to have sexual intercourse as part of their new adult status. Hence the urgency for early initiation.<sup>48</sup>

Young girls are valued by culture if their virginity is preserved; they are eligible for marriage and honor for their family. Furthermore, marriage enables a certain economic status based on the exchange of familial wealth through bride-price and other gifts that join families together. However, some individuals do not see virginity as such a positive cultural value. Fitnat N-A Adjetey believes that female genital cutting practices are based on the negative application of this cultural value. Adjetey claims that "...the basis of FGM

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<sup>47</sup> Gruenbaum, 78.

<sup>48</sup> Koso-Thomas, 22.

is the belief that women are considered incapable of thinking for themselves and therefore need society's help to make basic decisions regarding their own bodies.”<sup>49</sup> Consequently, the cultural value of virginity can have positive or negative beliefs attached to it depending on how it is applied within each culture. Virginity will continue to be a cultural value in many African cultures, and it must not be forgotten when discussing the presence of female genital cutting practices in these cultures.

These cultural values and cultural institutions are both deeply influential in creating an environment where female genital cutting is acceptable. These values and institutions work together to inform the members of African cultures of appropriate beliefs and behaviors. These cultural attitudes establish a mindset in members of African cultures that allows them to believe in a cultural approval of female genital cutting. Therefore, cultural attitudes are another factor contributing to the atmosphere in Africa.

### **THE DEBATES**

Now that we have explored the practice of female genital cutting and the cultural attitudes that perpetuate its occurrences, we shift our focus one last time to the debates surrounding this sensitive issue. In addition to the practice and the attitudes, the debates promote discussion over the various facets of the practice including how they affect African women. There are four main debates surrounding female genital cutting. The first debate analyzes the appropriate labeling of the practice. The second debate examines whether the female genital cutting procedures are a violation of human, women's, or children's rights. The third debate has its roots in the ethnocentrism versus cultural

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<sup>49</sup> Fitnat N-A Adjetey, “Religious and Cultural Rights: Reclaiming the African Woman's Individuality – the Struggle Between Women's Reproductive Autonomy and African Society and Culture,” in *Voices of African Women; Women's Rights in Ghana, Uganda, and Tanzania*, ed. Johanna Bond (Durham, North Carolina: Carolina Academic Press, 2005), 279.

relativism debate. Lastly, the fourth debate examines how these procedures are perpetuated and by whom. In this section, I present the debates that judge female genital cutting depending on their perspectives.

### **Labeling the Practice**

The debate over how to label these procedures is important because of the connotations of the labels. Moreover, there are labels that provide a judging nature and there are also labels that provide a strictly factual nature. The labels that seem to inherently judge these practices most often include the word “mutilation.” According to anthropologist Gruenbaum, “‘Mutilation’ is technically accurate because most variants of the practices entail damage to or removal of healthy tissues or organs. But for most people, the term ‘mutilation’ implies intentional harm and is tantamount to an accusation of evil intent.”<sup>50</sup> Gruenbaum’s second statement represents a negative judgment of the cultural practice, which may or may not have such negative purposes. In addition, viewing these practices as mutilation is often a label given from certain perspectives; Western feminists are quick to label the practice as female genital mutilation because they negatively judge the practice from ethnocentric beliefs. Thus, female genital mutilation is a label that must be used carefully because of its negative connotations.

In contrast to labels that seem to judge the practice are labels that name the practices based on physical facts. Various labels are taken from the types of procedures that occur such as clitoridectomies or infibulations. However, these labels generalize the practice because not all types of these procedures adhere to the degree of that surgery; labeling an infibulation as a clitoridectomy procedure or vice versa is simply

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<sup>50</sup> Gruenbaum, 3.

misrepresenting what is being done. Anthropologists who distinguish between these types of procedures recognize the problem in mislabeling the practice. Gruenbaum writes

‘Clitoridectomy’ and ‘infibulation’ are somewhat more precise descriptive terms, but a term that encompassed both types of surgeries and other variations is needed. ‘Female genital operations’ or ‘genital surgeries’ are accurate terms and can be used in some contexts, but they do not adequately differentiate these practices from therapeutic medical surgeries.<sup>51</sup>

Labeling the procedures as operations or surgeries reflects the medical aspect of the practice, yet these terms cannot be representative of all procedures. Other medical terminology such as circumcisions are often used, but these labels also may be misunderstood by outsiders to the practice.

Consequently, another type of labeling is associated with adding cultural significance or relevance to the procedure. This type of labeling is the most accurate because these labels represent the relationship between culture and practice. These labels attempt to present a lack of judgment and bias from outsiders. Although these labels may be the most accurate, they are also the most difficult to determine because there is no universal attitude to the relationship between African culture and these procedures.

Gruenbaum argues that

Neither term – mutilation or circumcision – is a translation of the Arabic word most commonly used for female circumcision in Sudan. *Tahur* (or its variations such as *tahara*) is usually translated as ‘purification’ and connotes the achievement of cleanliness through a ritual activity. But in fact there is little about the rather matter-of-fact performance of the surgical act that one would associate with ritual in a religious or mystical sense. Thus using a term that connotes ritual seems both inaccurate and inadequate to the broad range of meanings and contexts of the practices.<sup>52</sup>

Culturally-relevant labels also run the risk of misinterpreting the various factors or meanings that give cultural importance to the practice. Furthermore, the label of female

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<sup>51</sup> Ibid, 4.

<sup>52</sup> Ibid.

circumcision is debatable because it is often argued against by the followers of the practice; those who feel this label is inappropriate believe that using the term circumcision devalues the ritual performed on females because of the culturally-significant practice of male circumcision. However, there are some groups of people who use the female circumcision label because it is the closest term that is free of judgment.

Feminist anthropologist Ylva Hernlund argues that

‘Female circumcision’ is an expression commonly used when Gambians discuss the procedure in English. Although ‘circumcision’ implies a less severe operation than that which is commonly performed in the area, this term is seen by many Gambians as less judgmental and provocative than ‘female genital mutilation.’<sup>53</sup>

Consequently, some cultures label their type of practice a certain way so that others can comprehend the basics of their practice.

In reviewing the various labels, their connotations, and their biases, I label these procedures “female genital cutting.” Because it is near impossible to be unbiased in labeling these practices, my purpose for using the label of female genital cutting is to maintain an analytical distance from this practice. Although I cannot ignore my biased perspectives due to my situation, I believe the label of female genital cutting does not devalue these biases nor does it devalue the African context of these practices. It is important to understand the relationship between the cultural context and the practice, so my choice in labeling these procedures is reflective of a nonjudgmental analysis of a culturally-relevant ritual. Moreover, I choose to label the practice as genital cutting so that there are no negative connotations or misunderstandings associated with labeling it as circumcision, mutilation, or surgeries. Although I may refer to these practices as

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<sup>53</sup> Ylva Hernlund, “Cutting Without Ritual and Ritual Without Cutting: Female ‘Circumcision’ and the Re-ritualization of Initiation in the Gambia” in *Female ‘Circumcision’ in Africa; Culture, Controversy, and Change. Directions in Applied Anthropology*, eds. Bettina Shell-Duncan and Ylva Hernlund (Boulder, Colorado: Lynne Rienner Publishers, Inc., 2000), 238.

procedures, operations, surgeries, or the specific types of practice, I argue that the label of female genital cutting is the most appropriate overarching term for my discussion purposes.

### **Violation of Rights**

Along with the connotations following appropriate labeling are the connotations of judging the practice as a violation. This highly controversial debate examines whether female genital cutting practices are a violation of human rights, women's rights, and/or children's rights. This debate often comes from those individuals who judge the practice as devaluing African women or who believe in the harmful nature of these procedures. There are several layers to the violation because some individuals see the practice as harmful to a specific age group while others see the practice as harmful to the culture as a whole. Moreover, others believe that this practice is a humanistic problem or violation. Most often, it is Western feminists who argue that female genital cutting is a violation of human and women's rights. Western feminist and journalist Fran Hosken argues that "Women's rights are human rights. FGM is a human rights violation."<sup>54</sup> Moreover, she argues that "Human rights are now internationally and politically recognized to be absolute and not subject to limitations by gender or culture or tradition."<sup>55</sup> Hosken does not see a difference in violation between human rights and women's rights because she sees them as the same. Hosken also aligns herself with critics who feel that female genital cutting is detrimental to African culture because they believe the practice is perpetuated by men.

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<sup>54</sup> Hosken, 17.

<sup>55</sup> Ibid, 319.

On another level of this violation lies the belief that female genital cutting violates children's rights. Because it is rarely documented that young girls give their consent before these procedures occur, many critics believe that girls are unable to fully understand the long-term consequences of the practice. Because of the lack of documentation that provides information of young girls allowing these procedures to happen, critics argue that female genital cutting is a violation of children's rights. Alice Walker, an American novelist visiting a group of girls in the Gambia, believes that "The girls have been robbed of their full capacity for pleasure. Their bodies have been violated, and by the very elders who should be protecting them."<sup>56</sup> Walker belongs to the group of Western feminists who have a negative judgment of female genital cutting in the first place; consequently, Walker makes a logical connection between those on whom the practice is performed and those procedures that she judges with disdain. On the other hand, there are those who do not make negative judgments about female genital cutting as a cultural practice. Cheryl Chase, the founder of the Intersex Society of North America, compares female genital cutting procedures to the reconstructive surgeries of intersex children. Referring to past social discourse or acceptance of these procedures

By 1997 the intersex movement had gathered enough strength to visit Congress and ask that the Law to Ban Female Genital Mutilation be enforced to protect children not only against practices imported from other cultures but also against this uniquely American medicalized form of mutilation.<sup>57</sup>

Chase argues that intersex reconstructive surgeries and female genital cutting procedures are similar because they both are carried out on children without their consent; it is often

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<sup>56</sup> Alice Walker and Pratibha Parmar, *Warrior Marks; Female Genital Mutilation and the Sexual Blinding of Women* (New York: Harcourt Brace & Company, 1993), 44-46.

<sup>57</sup> Cheryl Chase, "'Cultural Practice' or 'Reconstructive Surgery'?" U.S. Genital Cutting, the Intersex Movement, and Medical Double Standards," in *Genital Cutting and Transnational Sisterhood; Disputing U.S. Polemics*, eds. Stanlie M. James and Claire C. Robertson (Urbana, Illinois: University of Illinois Press, 2002), 128.

parents that decide to have the operation done. Although referring specifically to intersex surgeries, the motivation behind them can be compared to female genital cutting procedures on children. Chase argues, “Pediatric genital surgeries literalize what many might otherwise consider a purely theoretical operation – the attempted production of normatively sexed bodies and gendered subjects through constitutive acts of violence.”<sup>58</sup> Chase contends that such operations are unnecessary because they attempt to enforce an unnatural process of gendering onto young bodies. Thus, female genital cutting practices may also be seen as unnaturally performing cultural constructions of gender on children who may not otherwise want this to occur to their own bodies. It is with these arguments that individuals believe female genital cutting is a violation of children’s rights.

### **Ethnocentrism versus Cultural Relativism**

One of the greatest debates surrounding female genital cutting is how to approach the practice. Like the labeling debate, it is near impossible to approach an ethically-debatable practice without viewer biases or certain perspectives. This difficulty is most apparent when viewing cultural practices because many academics and non-academics alike must respect the cultural traditions of the group they are studying. However, researchers are human and will have natural biases to their work. Consequently, the debate of ethnocentrism versus cultural relativism is typically introduced in the discipline of anthropology. While it is best not to have an extreme perspective, the degree of ethnocentrism or cultural relativism is questionable when examining female genital cutting. The problem of perspective of analysis lies within the situation of the analyst; Western feminists who distance themselves from female genital cutting practices tend to have ethnocentric analyses. On the contrary, feminist anthropologists criticize these

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<sup>58</sup> Ibid, 131.

women for not maintaining a degree of cultural relativism in their analysis. Therefore, it is necessary to examine both sides of the debate in order to see how each perspective alters the analysis of female genital cutting.

The ethnocentric side of the debate is founded on comparing other cultures to one's own culture or ethnicity; thus, one's own culture is central to the judgment or analysis. Because female genital cutting is largely an African practice, most ethnocentric arguments are from Western countries. Moreover, Western feminists and political theorists all argue with some degree of ethnocentrism. Western feminist and cultural anthropologist Claire Robertson believes that

we should not be surprised that these feminist representations of FGC share common assumptions with the dominant Western discourses regarding Africa. Feminists are no more immune from culture and ethnocentrism than anyone else.<sup>59</sup>

From Robertson's perspective, it is only natural for feminists to view another culture's practice with certain biases because they have a critical eye. In addition to feminist and anthropological analyses, political analyses also have levels of ethnocentrism. In analyzing gender inequality, academics in the political science field have a biased analysis of power structures. Writing from a scholarly political perspective, Susan Moller Okin argues that "Critical distance, after all, does not have to bring with it detachment: *committed* outsiders can often be better analysts and critics of social injustice than those who live within the relevant culture."<sup>60</sup> Okin believes that a certain degree of ethnocentrism should be maintained in order to see social injustice, yet claiming that committed outsiders are more able to see social injustice than those who are undergoing

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<sup>59</sup> Claire C. Robertson, "Getting Beyond the Ew! Factor: Rethinking U.S. Approaches to African Female Genital Cutting" in *Genital Cutting and Transnational Sisterhood; Disputing U.S. Polemics*, eds. Stanlie M. James and Claire C. Robertson (Urbana, Illinois: University of Illinois Press, 2002), 60.

<sup>60</sup> Susan Moller Okin, "Gender Inequality and Cultural Differences," *Political Theory* 22, no.1 (1994): 62.

female genital cutting may lead to faulty judgments. Consequently, ethnocentrism may provide benefits to an analysis only if viewers understand how ethnocentrism will skew their judgment of a cultural practice.

The cultural relativist side of the debate is not only comprised of viewing cultural practices in relation to their own contexts but also of a critique of ethnocentrism. Like those who have ethnocentric perspectives, Western feminists, anthropologists, and political theorists question the degree to which cultural relativism provides successful analyses. Feminist anthropologist Gruenbaum believes in

cultural relativism not as an ultimate ethical stance but as a mental technique to assist people to avoid negative judgments...Although a useful mental exercise to free one from unreflective ethnocentrism, cultural relativism usually requires a degree of suspension of one's ethical values.<sup>61</sup>

Gruenbaum argues that cultural relativism has its limit because if it is used as the guiding factor in all analyses of cultural differences, we sacrifice our ethics for our judgments. Like ethnocentrism, there must be a level of understanding of cultural relativism in cultural analyses. Without this understanding, analyses become mistaken and follow a blind judgment similar to ethnocentrism. Consequently, Gruenbaum also argues that

Critical opposition is potentially experienced as hostile ethnocentrism. Ethnocentric assessments that view the practices of others through the perspective of one's own culture are often innocuous misunderstandings...But frequently ethnocentric views lead not only to misconceptions but also to strongly negative judgments or differences...Insofar as it is unreflective, such ethnocentrism contributes to prejudices, particularly when the cultural differences concern strongly held values.<sup>62</sup>

Thus, Gruenbaum's critique of ethnocentrism warns us of the dangers that ethnocentric analyses can bring. In addition to anthropological critiques of ethnocentrism, political theorists also criticize the usage of ethnocentric perspectives. Political academic Jane

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<sup>61</sup> Gruenbaum, 26.

<sup>62</sup> Ibid, 25.

Flax directly criticizes Okin's ethnocentric argument on gender inequality. In response to Okin's terminology, Flax contends that

Constructing 'Third World' women as an unresisting and homogenous category positions them exclusively as objects of the discourses and practices of others. Furthermore, such positioning denies the possibility that women in the First World have much to learn about themselves and others by seeing through their eyes.<sup>63</sup>

By labeling women from other cultures, Flax believes this ethnocentric orientation hinders outsiders from seeing these women as women. Thus, the cultural relativist side of the debate offers an alternative analysis to ethnocentrism that might not be appropriate for evaluating cultural practices such as female genital cutting.

### **Perpetuation of the Practice**

The last debate over female genital cutting is how and by whom this practice continues in Africa. Following the discussion within the previous debates, it is difficult to comprehend how such a culturally-relevant practice is perpetuated despite Western criticism and labels. In accordance with this cultural ignorance of those ethnocentric analyses, some individuals argue that the practice is perpetuated by patriarchy. In accordance with cultural relativism, some individuals contend that female genital cutting is perpetuated by its own culture using various means. Furthermore, it can be argued that the ethnocentrism/cultural relativism debate perpetuates the practice as well because the confusion on how to approach female genital cutting does not stop the procedures from occurring.

According to the ethnocentric perspective, there is a belief that female genital cutting continues because of male dominance and harmful cultural values towards

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<sup>63</sup> Jane Flax, "Race/Gender and the Ethics of Difference; a Reply to Okin's 'Gender Inequality and Cultural Differences,'" *Political Theory* 23, no.3 (1995): 71.

women and young girls. As a Western feminist and journalist, Hosken truly believes that men are largely responsible for perpetuating female genital cutting procedures; her entire argument ignores the culturally-relevant aspects of African culture such as attitudes or gendered roles. In addition to Hosken's ethnocentric reasoning, British filmmaker and feminist Pratibha Parmar blames the perpetuation of female genital cutting on a critique of cultural relativism. Parmar argues that

The fear of being labeled cultural imperialists and racists has made many women reluctant to say or do anything about female genital mutilation...Clearly, female genital mutilation is a painful, complex, and difficult issue, which involves questions of cultural and national identities, sexuality, human rights, and the rights of women and girls to live safe and healthy lives<sup>64</sup> ... This reluctance to *interfere with other cultures* leaves African children at risk of mutilation. If we do not speak out, we collude in the perpetuation of this violence. There is no virtue in upholding, even unwittingly, the tradition of female genital mutilation.<sup>65</sup>

Parmar believes in an obligation to eradicate the practice because she claims that not attacking these procedures as mutilation will prolong female genital cutting on young girls. Consequently, misinformed and mislabeled efforts to blame the occurrence of female genital cutting do not prevent it from continuing.

In contrast to ethnocentric beliefs judging the perpetuation of female genital cutting are cultural relativist critiques; these cultural relativist analyses find reasoning for the upholding of these procedures within cultural attitudes. Feminist and native Sierra Leonean Fuumbai Ahmadu explores this cultural relativist perspective. In opposition to other female critics of female genital cutting, Ahmadu argues that

Most studies on female genital cutting (FGC) in Africa have been conducted by 'outsiders,' individuals who are not from the societies they analyze and who have no personal experience of any form of the operation. The limited number of African women who have written about FGC either come from ethnic groups where female genital operations are not practiced (i.e., Efua Dorkenoo, Olayinka

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<sup>64</sup> Walker and Parmar, 95.

<sup>65</sup> Ibid, 96.

Koso-Thomas) or have never undergone the procedure themselves (Nahid Toubia). There is an unfortunate and perturbing silence among African women intellectuals who have experienced initiation and ‘circumcision.’<sup>66</sup>

Ahmadu does not necessarily blame these women for perpetuating female genital cutting, yet she blames their inability to empathize with the girls who undergo the practice.

Consequently, Ahmadu’s personal choice to undergo female genital cutting as an adult provides her with a unique understanding of why this practice continues. Upon reasoning her own procedure, Ahmadu writes

Women of my mother’s generation and now my own must outweigh the benefits of such traditions against increased international concern about its physical, psychological, and sexual consequences for women. Ultimately, it is up to each generation of women to decide whether to continue or to reject this tradition without fear and coercion from outside as well as inside.<sup>67</sup>

Ahmadu’s perspective within a practicing culture allows her to believe in choice as the continuation of female genital cutting. These perspectives in reasoning the perpetuation of the practice rely on a culturally-relevant positioning of factors rather than a culturally-ignorance positioning of factors.

These four debates are the last factor contributing to an environment where female genital cutting is culturally acceptable in Africa. These discussions and analyses of the practice contribute to judgments of the practice, to judgments of those who perpetuate the practice, to judgments of culture, and even to judgments of the women and girls who undergo female genital cutting. Because of these debates, the narratives and personal experiences of women who undergo this practice are often masked over by outsider presumptions.

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<sup>66</sup> Fuambai Ahmadu, “Rites and Wrongs: An Insider/Outsider Reflects on Power and Excision,” in *Female ‘Circumcision’ in Africa; Culture, Controversy, and Change. Directions in Applied Anthropology*, eds. Bettina Shell-Duncan and Ylva Hernlund (Boulder, Colorado: Lynne Rienner Publishers, Inc., 2000), 283.

<sup>67</sup> *Ibid*, 294.

## CONCLUSION

In exploring the three factors that contribute to the situation, we see how difficult it is to evaluate female genital cutting. Within its own cultural context, there are many cultural factors that allow for the practice to continue. Taken out of its cultural context, there are also analyses and judgments that provide for female genital cutting to prevail in certain African cultures. Because the practice, the attitudes, and the debates are such strong factors that work together to create an environment of continuation, female genital cutting is upheld as a cultural tradition. Therefore, African women who make the choice not to have this procedure done have many obstacles to overcome. Moreover, it is often the case that the only option for these girls or women is to escape from Africa in search of a culture where female genital cutting is not acceptable. With asylum in a foreign country as one of these women's options, where will that situate African cultural practices?

## - OVERVIEW OF INTERNATIONAL OPTION: ASYLUM -

Given the variables that contribute to the prevalence of female genital cutting in Africa, it is evident that this practice is omnipresent in the lives of African women. In many cases, the practice and the cultural attitudes that support female genital cutting often prevent African women from escaping their cultural tradition. Consequently, one of the options available to African women and young girls is an international option; more specifically, they have the option of fleeing their country of origin in search of asylum in another country. Although there are many advantages and disadvantages to the asylum option, it is a concrete alternative to living in a gender-oppressive country. It is also worth noting that the emphasis on United States' asylum policy is due to the preference for North America to be the country of first asylum<sup>68</sup>. Therefore, this chapter presents an overview of the international option of asylum law. First, I discuss the definitions, terminology, and criteria involved with the asylum process. Next, I examine the history and development of asylum law and policy. Lastly, I compare and contrast the current asylum policies of select countries of primary or secondary asylum. I conclude that asylum is a viable option for African women fleeing female genital cutting in their native countries.

### OVERVIEW OF ASYLUM TERMINOLOGY

Before applying asylum law to the improvement of individuals' lives, it is necessary to understand the conceptual definitions and developments within the asylum field. Moreover, a thorough understanding of an applicant's underlying obstacles must be

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<sup>68</sup> Peter Koehn, "Persistent Problems and Political Issues in U.S. Immigration Law and Policy," in *Refugee Law and Policy; International and U.S. Responses*, ed. Ved P. Nanda (Westport, Connecticut: Greenwood Press, 1989), 68. This term is repeatedly used by various sources to describe a country in which the asylum seeker most frequently desires for his or her final destination.

associated with asylum in order to fully comprehend asylum. Consequently, I provide the conceptual definitions and developments of refugee and asylum status and the eligibility for refugee and asylum status.

### **Definition and Development of Refugee Status**

The definition of refugee is highly dependent on the development of refugee law. Further analysis on the development of refugee law is explored later in the chapter. The first definitions of refugee are international definitions prior to the Universal Declaration of Human Rights in 1948. James C. Hathaway, an authority on international refugee law at the University of Michigan Law School, contends that these international definitions follow three approaches: juridical, social, and individualist. The juridical approach, occurring mostly in 1920-1935, centers on the legal protection of individuals who are unable to seek legal protection in their state of origin. The social approach, found in policy in 1935-1939, claims that individuals ought to be protected with a humanitarian emphasis in cases where they are displaced from their home. Lastly, the individualist approach emphasizes an individual dissatisfaction and distrust with the individual's country of origin.<sup>69</sup> Accordingly, these three perspectives reveal natural progressions within the international community in establishing a common definition for refugees.

The next development in defining refugee status was the establishment of international law. Although the Universal Declaration of Human Rights in 1948 did not specifically define refugee status within its text, it does refer to fundamental human rights such as freedom to live without persecution.<sup>70</sup> However, the Declaration's mission

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<sup>69</sup> James C. Hathaway, "The Development of the Refugee Definition in International Law," in *Refugee Law and Policy*, eds. Musalo et al. (Durham, NC: Carolina Academic Press, 1997), 25-27.

<sup>70</sup> Office of the High Commissioner for Human Rights, "The Universal Declaration of Human Rights," <<http://www.unhchr.ch/udhr/index.htm>> (11 March 2006), 4.

transitions into the next development in refugee definition, the 1951 United Nations Convention Relating to the Status of Refugees. According to Article 1(a)(2), a refugee is defined

As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. In the case of a person who has more than one nationality, the term ‘the country of his nationality’ shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.<sup>71</sup>

This definition includes the criteria for becoming eligible with a reference to the nationality of the individual. Furthermore, the Convention includes the UNHCR’s Statute, which contends that

there are two kinds of refugees. First, the Statute recognizes refugees who are part of a mass movement provoked by invasion, oppression or war... Second, the Statute sees refugees as individuals who claim to have escaped persecution in their own country.<sup>72</sup>

The author makes reference to “quota refugees,” which refer to the first type of refugee because of the numbers of refugees that the country has to let in based on international relations. The second type of refugee is what concerns us for our later discussion on asylum law. Even though the 1967 UN Protocol to the Convention was introduced to the international community, it did not establish a significant definitional variation.

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<sup>71</sup> Office of the High Commissioner for Human Rights, “Convention Relating to the Status of Refugees,” <[http://www.unhcr.ch/html/menu3/b/o\\_c\\_ref.htm](http://www.unhcr.ch/html/menu3/b/o_c_ref.htm)> (5 March 2006), 2.

<sup>72</sup> Helene Lambert, *Seeking Asylum; Comparative Law and Practice in Selected European Countries* (Dordrecht, the Netherlands: Martinus Nijhoff Publishers, 1995), 5.

Consequently, the Convention's definition is the foundation for all subsequent international definitions of refugee status.

In addition to the international definitions of refugee, state or national definitions are introduced into local jurisprudence. Despite the international efforts of the United Nations, the United States was not one of the original members of the 1951 Convention on the Status of Refugees. On the contrary, the United States has its own progression of refugee definitions. Established in 1952, the Immigration and Nationality Act is chronologically the first attempt at defining refugee status.<sup>73</sup> According to the Immigration and Nationality Act in Sec. 101(a)(42), a refugee is defined as

any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and 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 political opinion.<sup>74</sup>

More pertinent to the issue of female genital cutting is the second definition of refugee status. According to section 207(e) of the Immigration and Nationality Act

[a person] who has been persecuted for failure or refusal to undergo such a procedure or for other resistance to a coercive population control program, shall be deemed to have been persecuted on account of political opinion, and a person who has a well founded fear that he or she will be forced to undergo such a procedure or subject to persecution for such failure, refusal, or resistance shall be deemed to have a well founded fear of persecution on account of political opinion.<sup>75</sup>

These definitions are similar in conceptual claims, yet the wording varies in emphasis.

The second definition focuses more on the sources for persecution than the first

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<sup>73</sup> U.S. Citizenship and Immigration Services, "Immigration and Nationality Act," (20 January 2006), <<http://uscis.gov/graphics/lawsregs/INA.htm>> (7 March 2006), 1.

<sup>74</sup> U.S. Citizenship and Immigration Services, "Definition of Refugee from the Immigration and Nationality Act," (28 February 2003), <<http://uscis.gov/graphics/howdoi/refugee.htm>> (12 April 2005), 1.

<sup>75</sup> Ibid.

definition. The next refugee definition in national law is associated with the establishment of the Refugee Act of 1980. Despite the existence of the Immigration and Nationality Act (INA), the Refugee Act revised the INA's 1951 definition of refugee to

any person who is: (1) outside his country of nationality (or in the case of a person having no nationality, is outside any country in which he last habitually resided), and who is unable or unwilling to return to such country because of persecution or a well-founded fear of persecution based on race, religion, nationality, political opinion, or membership in a particular social group; or (2) in special circumstances as the President, after congressional consultation, may specify, within the country of his nationality (or in the case of a person having no nationality, within the country in which such person is habitually residing), and who is persecuted or has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. Excludes from the definition of 'refugee' any person who ordered, incited, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.<sup>76</sup>

The Refugee Act's definition builds upon the INA's definition of refugee, but also expands to include provisions made by the 1967 United Nations Protocol. Once the United States signed the United Nations 1967 Protocol in 1968, the United States welcomed an international approach to the conceptual definition of refugee.

Consequently, recent legal progress in the United States includes more encompassing refugee definitions.

### **Eligibility for Refugee Status**

Proving one's eligibility for refugee status is closely associated with the definition of refugee. Individuals must submit an application in order to obtain refugee status in which they must prove that they fulfill the criteria established by the refugee definition.

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<sup>76</sup> Senator Kennedy, "Bill Summary & Status for the 96<sup>th</sup> Congress; S.643 Public Law: 96-212," (22 February 1980), <<http://thomas.loc.gov/cgi-bin/bdquery/z?d096:SN00643:@@D%7CTOM:/bss/d096query.html>> (16 February 2006), 1.

According to Helene Lambert, lecturer in European and International Law at the University of Exeter in the United Kingdom

To be eligible for refugee status, an applicant must have a ‘well-founded fear of being persecuted’ and must not benefit from the protection of his country of origin or of a third country. Proof of persecution is therefore the crucial element in admission procedures and its burden has grown higher and higher in the last few years... Because Article 1A(2) of the 1951 Convention remains silent on the interpretation of the term ‘well-founded fear of persecution’, reference will be made to national practice, in particular to the national competent authorities and courts in all the six countries. *Jurisprudence* concerning refugees in Europe is strongly depending on the system of judicial review and appeals of refugee applications in each country. Case-law is not equally developed in all of them.<sup>77</sup>

Although applicants must prove they are of a nationality other the country of refuge, the most difficult circumstance to establish is a fear of persecution. A refugee applicant can employ the same justifications for persecution that define a refugee. Lambert further analyzes the grounds for justifying persecution using the UNHCR’s (United Nations High Commissioner’s on Refugees) Handbook. Referring to the Handbook’s 40<sup>th</sup> through 42<sup>nd</sup> paragraphs, Lambert writes

According to paragraphs 40-42 of the UNHCR Handbook, fear of persecution contains a subjective (feelings, state of mind...) and an objective element (factual situation) and both elements must be taken into consideration in order to assess the fear of each individual.<sup>78</sup>

Because the fear of persecution must be proved in order for an applicant to be eligible for refugee status, the claims of persecution are evaluated carefully and precisely. Although the justifications encompass a wide range of options for the refugee applicant, evidence in claiming a specific fear of persecution is frequently difficult to validate.

### **Definition and Development of Asylum Status**

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<sup>77</sup> Lambert, 72-73.

<sup>78</sup> Ibid, 77.

Because refugee and asylum status stem from the same definition, it is easy to mistake one for the other. Because asylum is so deeply connected to refugee status, the progression of definitions follows the same international development as refugee definitions. Referred to in the Convention's Article 31, but not noticeably defined, asylum seekers are "Refugees unlawfully in the country of refuge."<sup>79</sup> Moreover, Article 31(1) states

The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.<sup>80</sup>

The Convention is the first international document where an asylum applicant is defined as individuals who have *already* entered the country's borders where they seek protection. Thus, the international definition of asylum changes with the development of international refugee definitions.

Like refugee status, the definition of asylum also involves state or national definitions. More specifically, the United States has its own conceptual definitions of asylum within its own borders. Because the United States is one of the first desired countries where refugees seek asylum, it is logical for the United States to adopt legally-appropriate asylum definitions. The United States Citizenship and Immigration Services defines asylum as

a form of protection that allows individuals who are in the United States to remain here, provided that they meet the definition of refugee and are not barred from either applying for or being granted asylum, and eventually adjust their status to lawful permanent resident.<sup>81</sup>

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<sup>79</sup> Office of the High Commissioner for Human Rights, "Convention Relating to the Status of Refugees," 9.

<sup>80</sup> *Ibid.*

<sup>81</sup> U.S. Citizenship and Immigration Services, "Asylum," (29 November 2004), <<http://uscis.gov/graphics/services/asylum/index.htm>> (12 April 2005), 1.

The national asylum definition is similar to the international definition, yet the wording is different in order to allow for specific cases within the United States. The national development of the asylum definition also changes slightly with the additions of the Refugee Act in 1980 and the revisions to the 1952 Immigration and Nationality Act. Consequently, the definition of asylum is not complete without exploring the definition of refugee.

### **Eligibility for Asylum Status**

Like the similarities between the statuses' definitions, the eligibility of both asylum and refugee differ slightly based on definitional qualifications. Asylum applicants must establish the same justifications based on fear of persecution that a refugee applicant must claim; the applicant's location inside or outside the country's borders does not change the criteria for justifying persecution. However, the difference in position makes the asylum applicants' fear of persecution more drastic because they must state their claim in order to maintain their temporary residency within that country.

The first challenge facing asylum applicants is to prove their fear of persecution using the operational definition of asylum. Because asylum seekers are individuals who are already within the boundaries of the country, they must establish reasons for their entrance to that country. According to Thomas Spijkerboer, scholar from the Centre for Migration Law at the University of Nijmegen in the Netherlands, "The flight motives of an applicant are always the product of choices made by the people involved in getting them down on paper – the applicant, the translator, the interview official, the lawyer, the

decision maker.<sup>82</sup> Furthermore, Spijkerboer claims that “The meaning of well-recorded ‘true facts’ is necessarily constructed and that not all constructions are equal. Each particular construction reflects particular political and ideological projects.<sup>83</sup> In addition to claiming motives for fleeing their country of origin, asylum applicants must also not be granted asylum in a previous country. Consequently, the asylum application is a serious process that must not be taken lightly by an individual desiring protection. Karen Musalo, Jennifer Moore, and Richard A. Boswell, experts in immigration and refugee law, argue that

The applicant for asylum or withholding has the burden of proof to establish eligibility for relief. The term *burden of proof* includes two separate burdens: the *burden of production* and the *burden of persuasion*. The burden of production refers to the applicant’s responsibility to *provide* or *reproduce* evidence relevant to the factual issues of her case. The burden of persuasion refers to the necessity of *convincing* or *persuading* the fact finder to a *specific degree of certainty* of the facts at issue.<sup>84</sup>

Asylum applicants are burdened with providing evidence of persecution and arguing their evidence. In order to be eligible for asylum status, one must establish a fear of persecution and know how to argue their case to stay within the country’s borders.

The second thing applicants must be familiar with is how they ought to present themselves in the asylum process. Because asylum officials are so precise in their granting of asylum, justifying a fear of persecution is often not enough to be granted asylum status. Consequently, asylum applicants must prove they are credible in their claims. Spijkerboer argues that applicants must establish credibility in their interviews in order for their applicant to continue to the next step. Furthermore, such evaluations of

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<sup>82</sup> Thomas Spijkerboer, *Gender and Refugee Status* (Burlington, Vermont: Ashgate Publishing Company, 2000), 46.

<sup>83</sup> *Ibid*, 55.

<sup>84</sup> Karen Musalo, Jennifer Moore, and Richard A. Boswell, *Refugee Law and Policy; Cases and Materials* (Durham, North Carolina: Carolina Academic Press, 1997) 209.

credibility include “... appropriate behaviour as a mother or wife [if female applicant]; the display of emotions; and ethnicity.”<sup>85</sup> Any behavior that deviates from the normal or expected behavior of the interviewers is typically deemed as incredible. In addition to credibility, applicants’ demeanor also adds to the success of being granted asylum.

According to Musalo and colleagues

The term demeanor refers to the general appearance and comportment of a witness. The judge at the hearing or trial is the only adjudicator who has had the opportunity to see and consider the witness’ demeanor. Administrative and federal appellate courts do not see or hear the witness, but conduct their review based on the record. For this reason, as a general principal, credibility determinations which take demeanor into consideration are entitled to more deference than those which are not at all based on demeanor, such as those derived from testimonial inconsistencies. In the asylum context, this means that although the Board of Immigration Appeals has *de novo* review of factual as well as legal issues, it may defer to the credibility determinations of immigration judges which are based in part on demeanor.<sup>86</sup>

An applicant’s demeanor can help an asylum case or destroy it depending on the individual’s behavior during the asylum hearings. Therefore, the criteria established for asylum eligibility are frequently difficult to succeed in obtaining asylum status.

Refugee and asylum status are so complex and misunderstood, which is why there is a need to define the two categories. However, changing international and national trends in treating displaced persons cause refugee and asylum definitions to adapt to existing attitudes and laws. Once an individual identifies his or herself with the definition, the criteria for proving eligibility is a serious step in the process for requesting protection.

## **HISTORY AND DEVELOPMENT OF LAW/POLICY**

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<sup>85</sup> Spijkerboer, 55.

<sup>86</sup> Karen Musalo, Jennifer Moore, and Richard A. Boswell, 878.

Like the definition of asylum, asylum law and policy has developed throughout the years. Asylum law develops alongside refugee law due to the developments of similar agencies and conceptual operations. Even though asylum law is an international issue, its policy develops on two levels: international and national. I argue that key developments of international asylum policy include the 1948 Declaration of Human Rights, the 1951 Convention on the Status of Refugees, and the 1967 United Nations Protocol. Furthermore, I argue that key developments of United States national asylum policy include the 1952 Immigration and Nationality Act of, the 1980 Refugee Act, and the 1995 Asylum Reforms.

### **International Law/Policy**

The initial development of international asylum policy was based on the Universal Declaration of Human Rights in 1948. Many scholars and legislators argue that the Declaration took the first international stand on human rights interests.<sup>87</sup> Although this document does not refer directly to refugees, it does emphasize the humanitarian protections motivating asylum policy. Article 14 of the Declaration states

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution. (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.<sup>88</sup>

For the purpose of the Declaration, the language describing asylum refers to a fundamental right of protection. Thus, the 1948 Declaration of Human Rights serves as a foundational document for asylum law.

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<sup>87</sup> U.S. Citizenship and Immigration Services, "Asylum Program Overview," (3 May 2004), <<http://uscis.gov/graphics/services/asylum/overview.htm> > (12 April 2005), 1.

<sup>88</sup> Office of the High Commissioner for Human Rights, "The Universal Declaration of Human Rights," 4.

The next, and arguably most significant, historical development in asylum policy is the 1951 United Nations Convention on the Status of Refugees. As a landmark document, the Convention is the first text to define and conceptualize refugee and asylum status. The Convention is so significant within the international arena because it

constitutes the cornerstone of the protection of refugees and thus, creates a specific law of refugees, besides human rights, immigration law and international law. Refugee law, therefore, now exists as a branch of international law in parallel with, and rooted in, humanitarian law and human rights. The major and outstanding constraints within the terms of the 1951 Convention are that an individual must have crossed a national border in order to achieve official recognition as a refugee and that his fears of persecution be well-founded.<sup>89</sup>

The Convention's immediate result is to provide a body of law to protect those displaced persons who seek protection or shelter within another country's borders. The Convention's differentiation between refugee and asylum establishes opportunities for long-lasting influences on policy.

The last consequential text in the international development of asylum policy is the 1967 United Nations Protocol Relating to the Status of Refugees. In general, the Protocol is an addendum to the 1951 United Nations Convention on the Status of Refugees. Even though the Protocol stands by itself in the development of asylum law, its amending nature closely connects it to the Convention. The purpose of the Protocol is to redefine the conceptual definitions that the 1951 Convention lay out. The Protocol also emphasizes the membership and signatory partnership of countries that belong to the Convention. Lastly, the Protocol ensures the position of the United Nations High Commissioner for Refugees (UNHCR).

Despite developments to asylum law, each member of the international community has not agreed with every progression of policy-making. A select number of

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<sup>89</sup> Lambert, 3.

countries did not sign the 1951 United Nations Convention, the United States of America for one; thus, the Convention reveals a conflict of interest between international and national refugee and asylum issues. Ved P. Nanda, the Thompson G. Marsh Professor of Law and Director of International Legal Studies at the University of Denver, claims that

Although a large number of states accept this [refugee] definition, the Refugee Convention and the Protocol are usually not considered self-implementing, which means that even for those states ratifying these instruments, the responsibility for operationalizing that definition and the provisions of the Convention and Protocol into domestic law is left to the individual states.<sup>90</sup>

Consequently, the largest obstacle for international asylum law is the application of international policy to the state or national level. Furthermore, there are challenges to *international* refugee law, so the focus centers on problems of state protection. Karen Musalo and her colleagues contend that

The first [dilemma] is that while the persecuted have the right to seek asylum in another country, there is no corresponding obligation on the part of the states to grant asylum to refugees... Secondly, even if states do provide refuge to victims of persecution, ultimately asylum is but a provisional measure which by itself cannot alleviate the causes of flight nor guarantee membership in a new political community for those in need of protection.<sup>91</sup>

Even though asylum is a fundamental right based on international documents, the national or state level does not reciprocate in providing asylum seekers with automatic protection under the law. Accordingly, international asylum law continues to develop in order to incorporate the developments of national asylum policy.

### **National Law/Policy**

The first historical development in United States asylum law is the 1952 Immigration and Nationality Act (INA). It is possible that the United States did not sign

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<sup>90</sup> Ved P. Nanda, "Refugee Law and Policy," in *Refugee Law and Policy; International and U.S. Responses*, ed. Ved P. Nanda (Westport, Connecticut: Greenwood Press, 1989), 4-5.

<sup>91</sup> Karen Musalo, Jennifer Moore, and Richard A. Boswell, 38.

the 1951 UN Convention because the INA was to be put into motion the following year. In contrast to the 1951 Convention, which does not directly define asylum within its text, the 1952 Immigration and Nationality Act devotes an entire act or section of its document to asylum. Section A of the INA outlines the authority to apply for asylum, section B lays out the conditions for granting asylum, and section C describes asylum status.<sup>92</sup> Much like the 1951 Convention, the Immigration and Nationality Act serves as a foundational legal text in establishing definitions and procedures for refugee and asylum issues. Although the Immigration and Nationality Act was established in 1952, this legal document has been amended throughout the years.

The next advancement in national asylum law development is the 1980 Refugee Act. Because the United States asylum law developed concurrently with international asylum law, the Refugee Act was constructed in response to the 1967 UN Protocol. Moreover, the Refugee Act is arguably the nation's first asylum text because it integrates the Immigration and Nationality Act and the Protocol into one overarching legal document. According to the United States Citizenship and Immigration Services, the Refugee Act of 1980 accomplishes six objectives in its signing

- a) Eliminated refugees as a category of the preference system,
- b) Set the worldwide ceiling of immigration to the United States at 270,000, exclusive of refugees,
- c) Established procedures for annual consultation with Congress on numbers and allocations of refugees to be admitted in each fiscal year, as well as procedures for responding to emergency refugee situations,
- d) Defined the term 'refugee' (to conform to the 1967 United Nations Protocol on Refugees) and made clear the distinction between refugee and asylee status,
- e) Established a comprehensive program for domestic resettlement of refugees,
- f) Provided for adjustment to permanent resident status of refugees who have been physically present in the United States for at least one year and of asylees one year after

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<sup>92</sup> U.S. Citizenship and Immigration Services, "Immigration Information; Immigration Laws – Immigration and Nationality Act," <<http://uscis.gov/lpBin/lpext.dll/inserts/slb/slb-1/slb-20/slb-1...>> (11 March 2006), 1.

asylum is granted.<sup>93</sup>

The Refugee Act of 1980 takes on the 1967 Protocol Agreement and develops it to fit the United States' asylum needs. Another significant result of the 1980 Refugee Act is the role of the Attorney General in deciding asylum claims. Senator Kennedy, in a report filed in the House of Representatives, summarizes that the 1980 Refugee Act "Authorizes the Attorney General to terminate the grant of asylum if conditions change in the individual's home country so that such an individual would no longer be subject to persecution."<sup>94</sup> The Refugee Act gives judicial power to the Attorney General in granting or declining asylum applicants. Despite the historical significance of the Act's development in national asylum law, it is argued that the relevance of this document is not so advantageous. According to Karen K. Jorgensen, a 1989 graduate of the College of Law at the University of Denver, "The Refugee Act of 1980 has become, in reality, nearly impotent. Regardless of court decisions to the contrary, the Attorney General and his agency have consistently violated the terms of the Act."<sup>95</sup> Even though the Refugee Act assigns the Attorney General judicial control over asylum decisions, potential for abuse of that power is present in the application of the 1980 Refugee Act. Consequently, further development in national asylum law is necessary for beneficial, long-lasting effects to occur in national policy.

Despite the language changes of the preceding two developments in national asylum law, the last development in United States asylum law is a series of

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<sup>93</sup> U.S. Citizenship and Immigration Services, "118. Refugee Act of March 17, 1980 (94 Statutes-at-Large 102)," (9 June 2003), <<http://uscis.gov/graphics/shared/aboutus/statistics/legishist/553.htm>> (12 April 2005), 1.

<sup>94</sup> Senator Kennedy, 1.

<sup>95</sup> Karen K. Jorgensen, "The Role of the U.S. Congress and Courts in the Application of the Refugee Act of 1980," in *Refugee Law and Policy; International and U.S. Responses*, ed. Ved P. Nanda (Westport, Connecticut: Greenwood Press, 1989), 145.

improvements. This most recent progression in national asylum policy is known as the 1995 Asylum Reforms. The Reforms began in 1990 with the Department of Justice's creation of the U.S. Asylum Officer Corps and the Immigration and Naturalization Services' Resource Information Center.<sup>96</sup> Yet, the most significant Reforms occurred in 1995 with the streamlining of the U.S. Asylum Officer Corps. The 1995 Asylum reforms

[d]ecoupled asylum requests from employment authorization, created the link between initial grant/referral by INS and the final adjudication by an Immigration Judge at EOIR, streamlined decision-making [sic] procedures by eliminating the need for an Asylum Officer's Notice of Intent to Deny and the opportunity to rebut an Asylum Officer's decision in most cases, ended the practice of mailing Asylum Officer decisions (instead, requiring personal service), [and] made available additional resources.<sup>97</sup>

Since the 1995 Reforms, the Immigration and Naturalization Service has reduced the number of asylum applications. Consequently, the 1995 Asylum Reforms have allowed refugees and asylum-seekers better treatment within the asylum process and quicker response-time to their application.

Despite the majority of national policy development occurring in the past 25 years, United States asylum law is relatively equal to international asylum law in terms of sheer number of years. The Immigration and Nationality Act was introduced at the same time as the international United Nations Convention on the Status of Refugees. However, decades passed until the United States made a significant change in asylum policy. Consequently, this fact discloses a national trend in asylum policy: asylum law is first and foremost an international development. Although states choose to sign an international asylum agreement, the international community is the initiator of asylum law and policy.

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<sup>96</sup> U.S. Citizenship and Immigration Services, "This Month in Immigration History: January 1995," 3.

<sup>97</sup> *Ibid*, 5.

## CURRENT ASYLUM POLICY

Current asylum policy differs from the historical development of asylum law because it refers to how countries treat asylum applicants today. This section does not discuss current asylum laws, but rather it examines current trends in asylum jurisprudence and how these trends reflect asylum processes. To provide a comparison of modern international approaches to asylum policy, I explore current policy trends in the international community, focusing on select non-American policies; more specifically, I highlight Switzerland and Germany, the United Kingdom, and the Netherlands. Additionally, I highlight the African continent as a governing body rather than focusing on select African countries. I emphasize the national impact of the United States current policy as one of the most well-known countries of primary asylum.

### **Select non-American Policies**

The first two countries to be discussed are Switzerland and Germany. These two countries of asylum are grouped together because they are often countries of secondary asylum; this means that these countries are frequently the first stop individuals flee to in their journey to a final asylum country such as the United States. Switzerland is also a significant country of asylum because the headquarters of the Office of the High Commissioner for Human Rights is located in Geneva, the capital of Switzerland. According to Helene Lambert, “An application for asylum in Switzerland may be introduced abroad, at a border check point, or when already in the country.”<sup>98</sup> This slightly differentiates asylum policy in Switzerland from other international asylum policies because asylum applicants are allowed to apply in locations other than within the

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<sup>98</sup> Lambert, 36.

country's borders. On the other hand, Germany is not so welcoming to their asylum applicants; Germany is known for its restrictive asylum policies. Lambert writes

Aliens without entry documents must apply for asylum at the border. Aliens who have entered the territory illegally must report and apply for asylum immediately either at a reception centre or at the police or aliens authority...Asylum seekers who are already in the country must apply for asylum to the aliens authority or the police of the Land of residence.<sup>99</sup>

Like Switzerland, the asylum applicant does not have to be within Germany's borders; however, the declaration of the asylum application is much more immediate in Germany's asylum policy. Therefore, Switzerland and Germany are similar in their label of secondary asylum countries yet different in their degree of immediacy for asylum applications.

Following Switzerland and Germany is the United Kingdom, a fellow country of secondary asylum. The United Kingdom is arguably a country of both secondary and primary asylum because it is often a final destination for refugees and a transitional country to the United States or Canada. The only difficulty for asylum applicants is that the United Kingdom is known for its exceedingly restrictive asylum policies. Within the United Kingdom, asylum applicants submit their applications to the Immigration and Nationality Department within the Home Office.<sup>100</sup> In declaring asylum

Entry clearance is issued before the alien arrives in the United Kingdom; leave to enter is issued at his arrival...Aliens without the required entry clearance are also sent back to the country they are coming from...Asylum applications made at a port of entry must be referred to the Home Office and no action for removal can be taken before a decision is taken by the Secretary of State.<sup>101</sup>

The United Kingdom's asylum process is somewhat similar to Germany's because of the various ways in which an individual can apply for asylum. The United Kingdom offers a

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<sup>99</sup> Ibid, 25.

<sup>100</sup> Ibid, 38.

<sup>101</sup> Ibid, 39.

non-American country of first asylum where applicants endure numerous obstacles in obtaining asylum.

In addition to the previous European countries is a third country of secondary asylum, the Netherlands. Like Switzerland and Germany, the Netherlands is frequently a secondary asylum country because of its liberal asylum policies. Thomas Spijkerboer, a scholar from the Centre for Migration Law at the University of Nijmegen in the Netherlands outlines the Dutch asylum procedure and terminology; the basic asylum procedure follows this sequence

Application, intake, interview, possibility for corrections/additions; Initial decision (State Secretary of Justice), Application for (administrative) review, optional: hearing by ACB or official commission; Review decision (State Secretary of Justice), Appeal, court hearing; Court decision.<sup>102</sup>

Although Spijkerboer is unclear as to what the “intake” step of the procedure is, the application is accepted before the intake of the individual applicant enters the formal asylum process.

Lastly, the African continent as a whole presents its own asylum policy based on refugee and immigration patterns. The asylum situation in Africa is unique because even though most individuals seek asylum in countries outside the continent, many African countries have their own asylum policies. Yet, the refugee situation in Africa is based on civil unrest between countries and post-colonial conflict, which causes immigration movements between African countries. Certain countries in Africa hold refugee camps for those who are leaving civil war in their countries of origin.<sup>103</sup> Consequently, an individual applying for asylum within an African country different from his or her

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<sup>102</sup> Spijkerboer, 235.

<sup>103</sup> Robert F. Gorman, “U.S. Refugee Policy in Africa,” in *Refugee Law and Policy; International and U.S. Responses*, ed. Ved P. Nanda (Westport, Connecticut: Greenwood Press, 1989), 115.

country of origin has more difficulty in establishing a fear of persecution due to conflict between countries. In an effort to improve the conditions of African refugees and asylum applicants within Africa

the Organization of African Unity (OAU) Convention on Refugees provides that ‘the term ‘refugee’ shall also apply to every person who, owing to external aggression, occupation, foreign domination, or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.’<sup>104</sup>

The development of current asylum policy in Africa is greatly dependent on the Organization of African Unity’s inclusion of newer provisions to the definition of refugee. With the 1967 establishment of the Organization of African Unity, the Bureau for the Placement, Education and Training of Refugees (BPETR) was founded the following year in March 1968. According to Joe Oloka-Onyango, a Law Professor at Makerere University in Kampala Uganda

The mandate of the Bureau – developed over the several years of its existence and operation – is to: i) Seek educational and economic opportunities for refugees in host countries; ii) Act as an information conduit to member states and the international community on the patterns, causes and consequences of refugee movements in Africa; iii) Equip refugees with the resources that would assist them in coping with their predicament and upon their eventual voluntary repatriation to their countries of origin; iv) Mediate between host countries and refugees with respect to alleged violations of national legislation committed by refugees, and v) Operate in association with the United Nations High Commissioner for Refugees (UNHCR), voluntary agencies, and member states to ensure the realization of the objectives enshrined in the 1969 OAU Convention.<sup>105</sup>

The Bureau’s policy, influenced by the Organization for African Unity, emphasizes refugee treatment and conditions instead of asylum. Therefore, current asylum policy in Africa reflects the current situation of treating refugee movements.

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<sup>104</sup> Ibid, 118.

<sup>105</sup> Joe Oloka-Onyango, “The Place and Role of the OAU Bureau for Refugees in the African Refugee Crisis,” (New York: Lawyers Committee for Human Rights, 1994), 7.

## United States Policy

Because the United States is a country of primary asylum,<sup>106</sup> its current asylum policy reflects the development of governmental agencies and application processes. Within the current Presidential administration asylum policy has taken a new turn with the closing of the Immigration and Naturalization Service (INS) in 2003; the INS was the governmental agency to handle all immigration procedures including refugee and asylum applications. In closing the Immigration and Naturalization Service, President George W. Bush Jr. distributed the agency's duties to the newly formed Department of Homeland Security.<sup>107</sup> Currently under the Department of Homeland Security are the Bureau of Immigration and Customs Enforcement (BICE), the Bureau of Border Security (BBS), and the Bureau of Citizenship and Immigration Services (BCIS).<sup>108</sup> The Bureau most concerned with asylum issues is the Bureau of Citizenship and Immigration Services. According to the Pathfinder to Asylum Law in the United States, the BCIS is responsible for "...adjudications. It reviews petitions for immigrant visas, adjustment of status, naturalization and asylum and refugee applications."<sup>109</sup> Accordingly, the restructuring of refugee agencies in the United States leads to a newer focus on asylum applicants and their applications for protection.

Although the BCIS is responsible for reviewing asylum applications, it does not have the same judicial power as the Attorney General has within the Department of Justice. Under the Department of Justice, the Attorney General oversees the Executive Office for Immigration Review. The Department of Justice also houses the Board of

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<sup>106</sup> Koehn, 68.

<sup>107</sup> Advanced Legal Research, "Pathfinder to Asylum Law in the United States," (Fall 2003), <[http://www.tc.umn.edu/~g-jack/pathfinders/F03\\_list\\_6.doc](http://www.tc.umn.edu/~g-jack/pathfinders/F03_list_6.doc)> (25 February 2005), 5.

<sup>108</sup> Ibid, 6.

<sup>109</sup> Ibid.

Immigration Appeals (BIA), which is responsible for examining appeals to immigration judges' decisions.<sup>110</sup> Consequently, the Department of Justice is the ultimate judge in granting asylum to asylum applicants. The recent establishment of these governmental agencies reveals modern trends in United States asylum policy.

In addition to the development of agencies in determining current asylum policy, the United States' asylum application process implicates United States' attitudes towards asylum applicants. The asylum applicant has two paths he or she can take in seeking asylum in the United States: the affirmative asylum process and the defensive asylum process. The key difference between the affirmative and defensive asylum processes is that the asylum seeker "...has not been placed in removal proceedings"<sup>111</sup> in following the affirmative asylum path. The steps of the affirmative asylum path involve the asylum-seeker filing Form I-589 within one year of being in the United States, being fingerprinted and undergoing a background check, being interviewed by an Asylum Officer, and then receiving the decision of the Asylum Officer as to whether asylum is granted or not.<sup>112</sup> In this process, asylum applications are typically processed without great delay.

On the contrary, the defensive asylum process is a longer course simply because of its defensive character. The first few steps are identical to the affirmative asylum; however, the individual is not granted asylum status by the Asylum Officer. The defensive asylum process is set up for an appeal process because the applicant is assumed to make a defense for his or her case to stay in the country. Consequently, the asylum-

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<sup>110</sup> Ibid.

<sup>111</sup> U.S. Citizenship and Immigration Services, "Two Paths to Asylum," (29 November 2004), <<http://uscis.gov/graphics/services/asylum/paths.htm> > (12 April 2005), 1.

<sup>112</sup> U.S. Citizenship and Immigration Services, "Affirmative Asylum Process," (29 September 2003), <<http://uscis.gov/graphics/services/asylum/flowchart.htm> > (12 April 2005), 1-2.

seeker is then recommended for a hearing with an immigration judge “...as a defense against removal from the United States.”<sup>113</sup> If the immigration judge does not grant asylum, the asylum-seeker has the opportunity to file an appeal with the Board of Immigration Appeals (BIA) within 30 days of the immigration judge’s decision.<sup>114</sup> If the BIA denies asylum, the asylum-seeker may continue to appeal the decision in further courts such as the U.S. Circuit Court of Appeals and the U.S. Supreme Court if necessary.<sup>115</sup> Unfortunately, the asylum applicant does not have control over which asylum path he or she enters. Therefore, the asylum applicant can receive an immediate or ongoing answer for his or her asylum application.

Although the United States’ current asylum policy is the product of a recent reorganization of its asylum agencies, the United States asylum process includes inherent challenges within its paths and development. Moreover, current international asylum policy exhibits a general trend toward handling asylum applicants because they are aliens to a country in which they do not own full citizenship. Depending on the liberal or restrictive asylum policies of a country, the agency determining asylum will grant or decline an application for asylum without or with delay. Because there will always be individuals seeking asylum, the future of current asylum policy is yet to be determined.

## **CONCLUSION**

Asylum is a valued international option within the international community. Asylum is difficult to obtain, yet it can save the life of those who are persecuted in their country of origin. In the case of African women, asylum is an option where these women can look outside Africa for protection. While this may not be a viable option for some

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<sup>113</sup> U.S. Citizenship and Immigration Services, “Two Paths to Asylum,” 2.

<sup>114</sup> Advanced Legal Research, 7.

<sup>115</sup> Ibid, 8.

women, others find themselves in desperate need of international aid in order to escape female genital cutting. African women who use asylum as an international option view female genital cutting as a culturally-embedded practice that persecutes them within their own communities. Consequently, asylum is beneficial to African women's quality of life because it removes them from an environment of persecution and fear.

## - EXAMPLE OF INTERNATIONAL OPTION: *IN RE KASINGA* -

For some individuals wishing to escape persecution, asylum is their only option. As seen in the previous chapter, an asylum applicant has a difficult road ahead of him or her due to the continually developing international and national asylum policies. Despite these obstacles, some African women view asylum as their only option in escaping female genital cutting within their home countries. In doing what not many women choose to pursue, an ambitious Togolese young woman named Fauziya Kasinga won asylum; Kasinga's landmark case was the Board of Immigration Appeal's 1996 trial *In re Kasinga*. In this chapter, I share Kasinga's story of how she came to select asylum as her only choice. Next, I present an overview of Kasinga's trial procedures to understand the challenges she endured. Lastly, I discuss why *In re Kasinga* is considered a landmark ruling; additionally, I examine why Kasinga's asylum status is a positive example of the international option of asylum for African women fleeing female genital cutting.

### KASINGA'S STORY

Although Togo is a small country given its area of 56,785 sq km,<sup>116</sup> its culture is diverse and multifaceted. One facet of Togolese culture is female genital cutting. For Kasinga, her family's history revolves around this cultural practice. Yet for Kasinga, she made a personal decision not to endure the cutting. Consequently, Kasinga's story is broken down into three phases: a community of cultural support and conflict in Togo, her journey to personal agency in another country, and her detainment phase without tangible options.

#### Community of Cultural Support and Conflict

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<sup>116</sup> Central Intelligence Agency, "CIA – The World Factbook – Togo," (29 March 2006), <[http://www.cia.gov/cia/publications/factbook/geos/to.html](http://http://www.cia.gov/cia/publications/factbook/geos/to.html)> (6 April 2006), 1.

Kasinga's community of cultural support and conflict consisted of her family background, her education, and her family crisis. For Kasinga, her community was composed of her village and its people, which were often the root for her feelings of persecution. Even though the cultural practice was her reason for leaving her village, Kasinga remains closely tied to her Togolese identity; this strong identification is crucial for her later asylum case. Even though Kasinga strongly identifies with these labels, her family provided a stronghold of values. Because Kasinga identified as a member of the Tchamba-Kunsuntu tribe of Togo, "Young women of that tribe normally undergo female genital mutilation 'of an extreme nature causing permanent damage' at age fifteen."<sup>117</sup> However, her parents did not support the procedure; therefore, Kasinga and her five sisters avoided the practice. Speaking of her father's childhood, Kasinga writes

I seem to remember he said he watched the actual procedure, but it could be that what he saw was all the blood and all the suffering his sister went through afterward. Whatever it was he saw, it horrified him. That's when he started hating *kakia*. He began asking, 'Why? Why do they do that?' The only answer he got was 'It's tradition. That's what our ancestors did. That's what we do.' Which wasn't a good enough reason for him.<sup>118</sup>

Consequently, Kasinga's childhood and young adulthood was filled with negative attitudes towards female genital cutting. Her family did not support the cultural practice, and neither did Kasinga.

In addition to her family, Kasinga's education influenced her environment of cultural support. Kasinga received informal education from her father, mostly through discussion of growing into her own person. According to Kasinga

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<sup>117</sup> Linda A. Malone and Gillian Wood, "International Decision: in re Kasinga. Interim Decision 3278, 1996 Westlaw 379826, 35 ILM 1145 (1996). Board of Immigration Appeals, June 13, 1996," *The American Journal of International Law* Jan. (1997): 91-140, *LexisNexis Academic*, Miami University Lib., Oxford, 28 Feb. 2005 <<http://web.lexis-nexis.com>>, 2.

<sup>118</sup> Fauziya Kassindja and Layli Miller Bashir, *Do They Hear You When You Cry* (New York: Dell Publishing, 1998), 23.

A lot of fathers try to extinguish any sign of independent thinking in their daughters, but not my father. In fact he reinforced it, not in words but by the way he responded whenever I did assert myself. He was always interested in my opinion, whether it was on which clothes he would wear that day or which car he should buy. And he taught me early that I had the power and right to express myself, to make my own choices.<sup>119</sup>

Kasinga was taught at an early age that her voice was valued; Kasinga learned that she had the right to make choices for herself. Moreover, Kasinga's father's influence also led Kasinga to receive formal education in religious and secular schools. Because Kasinga's family was Muslim, Kasinga began her formal education in a religious school at the age of five. However, her secular education was brought on by her father's desire for Kasinga to know the English language; Kasinga thoroughly enjoyed learning English. Her English education in Ghana would be vital later on in her escape from her community in Togo. Therefore, Kasinga's informal and formal education gave her the tools she would need to journey toward seeking refuge outside Africa.

Lastly, her family crisis was the turning point that changed Kasinga's community of cultural support into a community of cultural conflict. Until this point, Kasinga's family life had been enjoyable and balanced. However, the death of her father turned Kasinga's life upside down. According to Gregory A. Kelson, the Executive Director of the Institute for Women and Children's Policy

When her father died unexpectedly in 1993, Ms. Kasinga's paternal aunt, in accordance with tribal custom, took over as head of the family. Ms. Kasinga's mother was banished from her home and went back to her family in Benin. Ms. Kasinga was 17 years old at this point.<sup>120</sup>

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<sup>119</sup> Ibid, 46.

<sup>120</sup> Gregory A. Kelson, "Female Circumcision in the Modern Age: Should Female Circumcision Now be Considered Grounds for Asylum in the United States?," *Buffalo Human Rights Law Review* (1998): 185, *LexisNexis Academic*, Miami University Lib., Oxford, 06 Feb. 2006 <<http://web.lexis-nexis.com>>, 6.

Because of the customs of Kasinga's tribe, Kasinga's paternal aunt acquired all of Kasinga's father's property including Kasinga and her sisters. Consequently, the chain of events was devastating for Kasinga because her life was centered around her father. After his death, Kasinga was no longer treated as a loved daughter by a father figure. Several months later, Kasinga's aunt pulled her out of her secondary school in Ghana. In October 1994, Kasinga's aunt forced her to marry a man many years older than her. Furthermore, Kasinga's aunt forced her into undergoing female genital cutting prior to the marriage; this went against every value Kasinga was raised upon.<sup>121</sup> Because Kasinga was not raised with a personal acceptance of female genital cutting, or *kakia* as she called it, she could not continue living in her situation where the practice was forced upon her. Consequently, Kasinga saw an escape as her only option.

### **Journey to Personal Agency**

Kasinga's journey from cultural conflict to personal agency is a long and arduous one. Kasinga's journey began with her sister removing her from Kpalime and taking her to the airport in Accra, Ghana. From Ghana, Kasinga traveled to Germany where she stayed with a German woman temporarily. In December 1994, she met a Nigerian man who introduced her to the possibility of asylum.<sup>122</sup> After developing a friendship with the man, the man helped Kasinga get the documents she needed to make the next step in her journey. With her friend, Kasinga decided she would go to the United States because she spoke English and she had relatives in Washington D.C. and New Jersey. Once Kasinga arrived in the United States, she got off the plane and asked for political asylum to the first officer in the airport. Unfortunately, she was told she could not receive asylum.

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<sup>121</sup> Ibid.

<sup>122</sup> Ibid.

Instead of being granted asylum, she was immediately imprisoned. Starting in December 1994, Kasinga's journey would be from prison to prison or detention center.

### **Detained Without Tangible Options**

Now imprisoned, Kasinga's story became a tale of despair and disheartenment. Her journey within the prison system began in the Esmor Detention Center in Elizabeth, New Jersey.<sup>123</sup> In Esmor, Kasinga learned about how to handle the detention center guards and she also made friends with fellow women waiting for their chance at asylum. It was also at Esmor that she was able to first contact her family in America, who were able to get a lawyer to take her case against the Immigration and Naturalization Service (INS). Her lawyer, Eric Bowman, was denied by the INS; however, Bowman would link Kasinga to Layli Miller Bashir, a new lawyer who would passionately argue for Kasinga.

After a riot at Esmor, Kasinga's journey within the prison system moved to a new location. In June 1995, Kasinga was transferred to the Hudson County Correctional Center in Kearny-Hackensack, New Jersey.<sup>124</sup> Kasinga only remained at the Hudson prison for a couple of days before being transferred again. For this phase of the journey, Kasinga was taken to the York County Prison in York, Pennsylvania.<sup>125</sup> After a month of Hudson, Kasinga was transferred again; this time, Kasinga's new holding center was Lehigh County Prison.<sup>126</sup> It was at Lehigh where Kasinga was finally to have her INS formal hearing with a judge. Lehigh was the last prison or detention center to house Kasinga before her grant of asylum. All together, "Ms. Kasinga was in prison from

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<sup>123</sup> Ibid, 187.

<sup>124</sup> Ibid, 279.

<sup>125</sup> Ibid, 293.

<sup>126</sup> Ibid, 324.

December 1994 to April 1996, when the BIA agreed to hear her appeal.”<sup>127</sup> After being transferred to and from prison to detention center, and being denied asylum application after simple requests, Kasinga was finally granted asylum in June 1996.

### **KASINGA’S TRIAL**

Following the overview of asylum law in the previous chapter, it is evident that Kasinga’s trial follows the defensive asylum process because Kasinga was placed in removal proceedings and she had to argue for her right to stay in the United States. Accordingly, Kasinga’s trial process has two parts: her initial hearing and decision appeal. In August 1995, U.S. Immigration Judge Donald Ferlise heard Kasinga’s initial request for political asylum. In her hearing, Kasinga testified her fear of persecution if she returned to Togo. More specifically,

Ms. Kasinga testified that the government of Togo would take no steps to protect her from the practice of female circumcision. She continued that she was reported to the police in Togo and if she returned, she would be arrested and forced to return to her husband and undergo female circumcision.<sup>128</sup>

Kasinga’s lawyers, Eric Bowman and Layli Miller Bashir, educated her in showing a fear of persecution to establish the need for asylum. However, in his decision to deny Kasinga asylum, “Judge Ferlise stated that even if he believed Fauziya Kasinga, which he did not, the record ‘does not reveal any past or future or present persecution.’”<sup>129</sup> Judge Ferlise reviewed all components of the trial, including not having the proper documentation in order to seek asylum. With regards to the judicial reasoning for his denial of Kasinga’s asylum,

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<sup>127</sup> Kelson, 6.

<sup>128</sup> Kelson, 6.

<sup>129</sup> Equality Now, “United States: Political Asylum for Fear of Female Genital Mutilation & the Kasinga Case – Women’s Action 9.3,” (June 1996), <[http://www.equalitynow.org/english/actions/action\\_0903\\_en.html](http://www.equalitynow.org/english/actions/action_0903_en.html)> (8 February 2005), 1.

Immigration Judge Ferlise held that Kasinga did not attempt to commit a fraudulent entry into the United States. However, he did not find Kasinga's testimony rational, internally consistent, or persuasive. He held that the applicant could not support a claim of persecution by being a member of a particular social group because "all tribal women from certain Northern tribes . . . allow themselves to be circumcised" and Kasinga was not singled out for persecution. Judge Ferlise likened Kasinga's circumstances to those of someone opposing the one couple, one child policy in China, which was not found to be persecution in the absence of evidence that it was imposed for a reason other than population control.<sup>130</sup>

For Judge Ferlise, Kasinga did not prove enough of a need for asylum based on one of the grounds of persecution. Consequently, Kasinga's testimony was not enough to grant her asylum at her initial hearing; thus, an appeal was her only option.

Since the initial hearing was unacceptable for Kasinga, the final step in Kasinga's trial process was the appeal decision. The governing body to hear Kasinga's appeal was the Board of Immigration Appeals, which has the last say in granting asylum. Along with Chairman Paul W. Schmidt, eleven other board members heard Kasinga's appeal; Kasinga also had a new attorney, Karen Musalo, to argue her appeal.<sup>131</sup> In reviewing the appeal to Judge Ferlise's decision, the Board questioned Ferlise's devaluation of Kasinga's credibility and his reasoning for discounting female genital cutting as reason for persecution. In preparation for coming to a conclusion, the Board used documents prepared by a sociologist that described the prevalence of female genital cutting in the northern Togo cultures.<sup>132</sup> After reviewing all evidence and testimonies, the Board of Immigration Appeals reversed Judge Ferlise's decision and therefore, granted Kasinga asylum on June 13, 1996.

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<sup>130</sup> Connie M. Ericson, "In re Kasinga: an Expansion of the Grounds for Asylum for Women," *Houston Journal of International Law* Spring (1998): 20, *LexisNexis Academic*, Miami University Lib., Oxford, 6 Feb. 2006 <<http://web.lexis-nexis.com>>, 3-4.

<sup>131</sup> "IN RE FAUZIYA KASINGA APPLICANT," 21 I. & N. Dec. 357, Interim Decision (BIA) 3278, 1996 WL 379826 (BIA), *Westlaw*, 1.

<sup>132</sup> Malone and Wood, 3.

Although the decision to grant asylum to Kasinga was vitally important, the reasoning behind the Board of Immigration Appeals' decision is significant. In formulating their decision, the Board determined that Kasinga was indeed a credible witness; the board members looked at Kasinga's specific case of female genital cutting in Togo and determined that she was consistent in her testimony of establishing a country-wide fear of persecution.<sup>133</sup> In evaluating Kasinga's membership to a particular social group as justification for her fear of persecution, the Board also reconstructed Kasinga's social group to be the young women of her tribal group who have not had FGC and who oppose the practice. According to Schmidt's majority opinion

(1) The practice of female genital mutilation, which results in permanent disfigurement and poses a risk of serious, potentially life-threatening complications, can be the basis for a claim of persecution. (2) Young women who are members of the Tchamba-Kunsuntu Tribe of northern Togo who have not been subjected to female genital mutilation, as practiced by that tribe, and who oppose the practice, are recognized as members of a "particular social group" within the definition of the term "refugee" under section 101(a)(42)(A) of the Immigration and Nationality Act, 8 U.S.C. <section> 101(a)(42)(A) (1994). (3) The applicant has met her burden of proving through credible testimony and supporting documentary evidence (1) that a reasonable person in her circumstances would fear country-wide persecution in Togo on account of her membership in a recognized social group and (2) that a favorable exercise of discretion required for a grant of asylum is warranted.<sup>134</sup>

The Board's decision not only granted Kasinga asylum, but recognized her personal persecution to be a credible persecution for a larger group of women seeking asylum. Consequently, Kasinga's entire trial process of the initial hearing and appeal not only granted her asylum but also potential asylum for other women.

### **KASINGA'S IMPLICATIONS FOR ASYLUM CASES**

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<sup>133</sup> Arthur C. Helton and Alison Nicoll, "Female Genital Mutilation as Ground for Asylum in the United States: The Recent Case in re Fauziya Kasinga and Prospects for More Gender Sensitive Approaches," *Columbia Human Rights Law Review* Winter (1997): 28, *LexisNexis Academic*, Miami University Lib., Oxford, 28 Feb. 2005 <<http://web.lexis-nexis.com>>, 3.

<sup>134</sup> "IN RE FAUZIYA KASINGA APPLICANT," 1.

Although the decision of *In re Kasinga* granted protection and asylum for Fauziya Kasinga, its implications for jurisprudence and future asylum cases are more significant. Rather than the ruling creating a precedent, the Board of Immigration Appeals avoided generalized language and stuck to limiting language in reference to Kasinga's situation. In presenting their decision, Chairman Schmidt wrote, "In deciding this case, we decline to speculate on, or establish rules for, cases that are not before us."<sup>135</sup> The purpose of the Kasinga decision was not to establish a precedent, but to rule on only that particular case. However, this was the first time that an asylum claim was accepted where female genital cutting was used as grounds for persecution whether intended or not.

Accordingly, the unintended implications of *In re Kasinga* focus on the implications for how women can use aspects of their persecution in order to achieve asylum. Even though Kasinga's trial did not reach many other asylum decisions at that time, the Board of Immigration Appeal's decision certainly made progress towards accepting gender-based asylum claims.<sup>136</sup> Female genital cutting is likened to the gendered persecution of rape and sexual victimization because women are most frequently victimized because of their gender; therefore, accepting female genital cutting as one of these gender-based persecutions is another step in helping women asylum applicants.

## CONCLUSION

Not only did this case grant asylum to Kasinga, a Togolese woman escaping female genital cutting, but it symbolized a successful international option for African

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<sup>135</sup> Ibid, 2.

<sup>136</sup> Isabelle R. Gunning, "Global Feminism at the Local Level: Criminal and Asylum Laws Regarding Female Genital Surgeries," *The Journal of Gender, Race & Justice* Fall (1999): 3, *LexisNexis Academic*, Miami University Lib., Oxford, 6 Feb. 2006 <<http://web.lexis-nexis.com>>, 9.

women. Kasinga is only one woman, but her membership to an ethnic group from northern Togo allows African women to believe they can have that same opportunity.

## **- OVERVIEW OF DOMESTIC OPTION: RESISTANCE EFFORTS -**

The international option of asylum is only one of the options available to African women seeking to escape female genital cutting in Africa. When African women believe they have the potential to change their own situations within their own communities, their options change. African women no longer are forced out of their own countries with asylum as their only option; the option available to these women is resistance.

Specifically, African women now have the option of resisting female genital cutting locally and nationally. Therefore, this chapter explores the domestic option of resistance efforts that African women pursue in hopes of changing their situation. In this chapter, I examine governmental or legal resistance efforts to reduce the number of female genital cutting procedures. Next, I discuss the sociocultural resistance efforts as a qualitative option for resisting the cultural attitudes that support a continued value of female genital cutting. Thus, legal and sociocultural resistance efforts are valuable options for African women seeking to improve their situation in the face of female genital cutting procedures.

### **GOVERNMENTAL/LEGAL RESISTANCE EFFORTS**

Because there are many forms of resistance, governmental or legal resistance is one type of effort African women can attempt in improving their living conditions with female genital cutting. Because this legal resistance is a conceptual option, I define this type of resistance effort. Next, I explore the types of legal resistance efforts that seek total eradication; these efforts include the involvement of the medical system.

#### **Explanation of Conceptual Legal Resistance**

Governmental or legal resistance efforts are a valid option for African women seeking to escape female genital cutting because they attempt to change the legislation.

The purpose of these legal resistance efforts is to make female genital cutting illegal, which would reduce the number of procedures in theory. Consequently, this type of resistance effort focuses its efforts on quantitative eradication because the legal prohibition of the practice desires a reduction of prevalence. Conceptual legal or governmental resistance also desires to increase the representation of women in decision-making bodies; this resistance effort also seeks to increase women's membership to a culture they might otherwise fully enjoy.

Even though the concept of legal resistance efforts sounds simple, this type of resistance is dimensionally complex because it involves political theory and constructions of personhood. Because these resistance efforts are often tied in within political movements, it is debated whether to analyze inherent dichotomies within the political discipline. Because political theory often reveals an unequal distribution of power within its subjects, the eradication of female genital cutting is seen as an abuse of gendered power. Moreover, legal resistance efforts utilize this inherent power dichotomy to unmask the gendered power structures that operate within practicing African communities.

In addition to a power dichotomy in these resistance efforts, the dichotomy of public versus private aides the discussion of legal resistance efforts. There is room for resistance within both spheres because women are too often restricted/relegated to the private sphere. Accordingly, African women resist their situation in both spheres because female genital cutting is believed to be located in the private sphere when in reality it is a public issue that affects the entire community. The controversy now centers around the characterization of female genital cutting; if the practice must be registered within the

public versus private dichotomy, when does a private rite transition into a public rite? Resistance efforts focusing in designing new laws attempts to solve this question in the process of eradicating female genital cutting.

If female genital cutting is placed in the public sphere, then the goal of legal resistance efforts become more relevant. The desired end result of legal resistance efforts is to make female genital cutting illegal by implementing legislation. However, there are possible issues surrounding changing legislation in order to change the numbers of women and girls who experience female genital cutting. One of the potential problems of legislation is its long-lasting effectiveness; illegalizing female genital cutting through legislation is only successful if it phases out the public need for the law in the first place. Moreover, the presence of female genital cutting within jurisprudence will be decreased once the presence of judicial activism is implemented into the judicial body of the government. Regina M. Rweyemamu, a member of the Tanzanian judiciary and the Labor Commissioner in the Ministry of Labor and Youth Development, believes that judicial activism influences lawmaking. According to Rweyemamu

judicial activism refers to a philosophy of judging that seeks to interpret law in light of social reality and consistent with overriding principles of justice and fairness, as opposed to judicial restraint, in which the judge applies rules formally and consistently, ‘unconcerned with the larger issues of social justice.’<sup>137</sup>

Therefore, the justice needed to remove female genital cutting from the law needs to be from a social approach in order to be affective. With a change in legislation, it is also desired that women be included as legal citizens of society and the nation; once women gain this status of being a legal body within their society, they gain numeric and

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<sup>137</sup> Regina M. Rweyemamu, “Judicial Activism and Gender Rights in Tanzania: The Task Ahead,” in *Voices of African Women; Women’s Rights in Ghana, Uganda, and Tanzania*, ed. Johanna Bond (Durham, North Carolina: Carolina Academic Press, 2005), 63.

conceptual representation. Thus, African women seeking to change legislation to eradicate female genital cutting not only reduce the numbers of female genital cutting, but they also increase their representation as members of society.

### **Types of Legal Resistance Efforts**

Following the conceptual definition of governmental or legal resistance efforts, the underlying theme between the types of legal efforts is the goal of reducing prevalence of female genital cutting. The first form of legal resistance effort falls under the category of women's educational initiatives; these programs look to educate women about the prevalence of female genital cutting in their communities and the number of options available to them. The second form of legal resistance effort falls under the category of government health initiatives, which seeks to improve the numbers of healthy women and reduce the prevalence of dangerous medical procedures. The last form of legal resistance effort, medicalization programs, is similar to government health initiatives because their goal is to create safe and legal procedures that reduce the number of risky surgeries; this type of effort is examined in the next chapter.

Women's educational initiatives are one option for African women to be involved with improving their quality of life within communities that practice female genital cutting. These educational initiatives focus on educating community members about proper women's health, which ties this resistance effort to government health initiatives. However, this type of resistance effort is different from health initiatives because it relies on national campaigns to reduce the numbers of female genital cutting. One example of this legal resistance effort is the Somalian Democratic Women's Organization (SWDO),

a national women's educational program based in the 1980s. According to Fran P.

Hosken, author of *The Hosken Report*

The campaign was designed to focus on increasing awareness especially on the part of doctors, religious and community leaders concerning the severe damage which is done to a woman's health from a practice which has no value nor is a religious demand. Support from these two groups can lead in future to more concern for women's health.<sup>138</sup>

The Somalian women's educational effort involved both men and women working together to resist the traditional practice of female genital cutting. In addition to the Somalian women's educational effort, the Burkina Faso initiative focuses on national eradication of the cultural procedure. The Burkina Faso eradication campaign is different than the Somalian campaign because it uses a more holistic approach with its target audience. In summary, Hosken writes

This campaign is based first of all on consciousness raising using the film 'My Daughter Will Not Be Excised,' which was taken in Burkina Faso and shows a real-life situation...The topic is used as basis for discussion and to raise questions among the audience, often for the first time, why excision is performed, explaining the health damage that results. Most of all, the film is used to raise doubts in the minds of the very traditional viewers about the usefulness or necessity of this practice – questions that in the rural environment of this country have never been raised, let alone discussed.<sup>139</sup>

The method of consciousness raising is utilized in such a way that direct change of numbers is the desired effect. Women educational initiatives are important for quantitative resistance of female genital cutting because it lets women be the initiators of change.

In contrast to these educational initiatives created by and geared toward women, quantitative resistance also exists in the form of government health programs. As one of the major governmental operating bodies in Africa, the Inter African Committee (IAC)

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<sup>138</sup> Hosken, 398.

<sup>139</sup> Ibid, 400.

conducts many conferences on the treatment of their people. In 1984, the IAC conducted the Seminar on Traditional Practices Affecting the Health of Women and Children; one of the missions behind this conference was to discuss the impact of female genital cutting on African women.<sup>140</sup> Because the Inter African Committee's emphasis is the health of African women, it is greatly concerned with implementing women's health initiatives in all of its constituent countries. Some of its plans for improving women's health plans are

special training and information campaigns, training or orientation of traditional birth attendants and other practitioners, setting up of National IAC Committees and supporting zonal meetings, preparation and distribution of reports on seminars and workshops as well as of educational and information materials, [and] support of research activities, evaluations, advocacy, and fundraising.<sup>141</sup>

The Inter African Committee takes a realistic approach to the issue of African women's health by viewing female genital cutting as a hindrance to the African women's health system and implementation. Moreover, family planning projects fall under this category because they recognize the concept of family as a product of successful women's health programs. One such program is the Cairo Family Planning Association Project in Egypt, which supports women's reproductive rights while arguing against female genital cutting. According to Hosken,

In the most recent annual report, the CFPA states that it has succeeded in having information on the hazards of FGM included in family life education as well as in school curricula and medical as well as nursing training programs. Such inclusion of information especially in all family planning and other ongoing health programs is certainly the most cost-effective and the most efficient and comprehensive method to deal with FGM which could be introduced everywhere else in Africa where national family planning programs have been set up. The media campaign against FGM carried on by the Cairo Family Planning Association sets an example by involving community leaders and especially physicians, nurses and others in the health system in this broad-based campaign.<sup>142</sup>

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<sup>140</sup> Ibid, 390.

<sup>141</sup> Ibid, 391.

Because women's reproductive ability is hindered by female genital cutting, the Cairo Family Planning Association Project aims to reduce the numbers of the practice in order to improve the success of family planning initiatives. Because these health programs are sponsored and frequently funded by government agencies, their goal is to implement national strategies that reduce the prevalence of female genital cutting.

Because of its governmental foundation, the Maendeleo Ya Wanawake Organization (MWYO) in Kenya is a prime example of legal resistance efforts.

According to Hosken

The Maendeleo Ya Wanawake Organization is the largest and one of the oldest women's organizations in East Africa. Organized in colonial times, it was founded in 1952. Its name literally translated means 'women's progress' and it has the largest membership of village women of any women's organization in Africa – hence also political clout.<sup>143</sup>

This organization was created by women, which makes it a unique example of a women's educational initiative. The MWYO also has a unique history because of its involvement with Kenyan legislative powers; Kenyan women's organizations have had to hide their condemnation with female genital cutting in order to support their political leaders. Therefore, it was not until the Inter African Committee Conference in 1990 that the members of the Maendeleo Ya Wanawake Organization combined legislative efforts and implemented a three-phase project with Population Action International to fund a country-wide attempt at eradication.<sup>144</sup> As a women's organization operating within the larger national government system, greater quantitative resistance is possible.

After the initial meeting between the MYWO and the Inter African Committee in 1990, the three-phase initiative was set into action. Beginning in July 1991 and lasting till

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<sup>142</sup> Ibid, 395.

<sup>143</sup> Ibid, 401.

<sup>144</sup> Ibid, 402.

June 1992, the first phase of the project focused on conducting quantitative research where the MWYO surveyed Kenyan communities on their opinions of female genital cutting. According to Hosken's interpretation of those results, "The majority of the women interviewed (65 percent) wanted the practice to continue, claiming that changes would be difficult to bring about and stating that FGM was a sign of maturity."<sup>145</sup> This first phase found that there was still a cultural value attached to the practice, which would be resisted using sociocultural resistance efforts. Consequently, the second phase of the initiative began in 1992 and continued till April 1993 with the conducting of qualitative research; this phase place cultural value and more in-depth beliefs to the quantitative data from the first phase.<sup>146</sup> Lastly, the final phase began in May 1993 and lasted till 1995; this phase sought to apply the research from the first two phases. According to Hosken,

MYWO will work with local communities to implement communication strategies that reflect the findings of both the quantitative and qualitative research. The strategies will use the communities' own perceptions to create awareness about the harmful effects of certain traditional practices (with emphasis on FGM) and develop culturally appropriate responses and alternatives...They will use local resources and local institutional networks to train, educate and inform members of the target audience throughout the community. Messages about harmful traditions will be integrated into other health and development programs in the four districts.<sup>147</sup>

The Maendeleo Ya Wanawake's last phase of their resistance effort sought to apply their research into the communities that support female genital cutting; therefore, the legal resistance effort would manifest itself in the communities using numerical data and appropriate, legislative-sponsored tools to aid eradication efforts.

Government or legal resistance is necessary for African women seeking to escape female genital cutting because they utilize political power to reduce the numbers of

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<sup>145</sup> Ibid.

<sup>146</sup> Ibid, 402-403.

<sup>147</sup> Ibid, 403.

women undergoing the practice. Furthermore, African women can position themselves within the public realm where they usually are not readily seen; they can deconstruct many of these dichotomies that enforce their status as minors and the abuse that results from their social constructions as children. Through women's educational programs and government health initiatives, African women can successfully resist female genital cutting.

### **SOCIOCULTURAL RESISTANCE EFFORTS**

Although they both provide options for African women within their local communities, legal and sociocultural resistance efforts are inherently different. Sociocultural resistance efforts are founded upon cultural attitudes toward female genital cutting. Therefore, I first present a conceptual definition of sociocultural resistance efforts; then, I explore what this type of effort does, where its efforts are located, and what is its desired end result. Lastly, I describe the type of sociocultural resistance effort that African women are most likely to pursue under this category of resistance: alternative rite-of-passage ceremonies and alternative cutting procedures.

#### **Explanation of Conceptual Sociocultural Resistance Efforts**

As one of the manifestations of resistance efforts, sociocultural resistance efforts are characteristically conceptual in their definition. There is no concrete definition for this type of effort because like the legal resistance efforts, it is a multidimensional effort. The first step in explaining the concept of sociocultural resistance efforts is understanding what it does; these resistance efforts create awareness, which leads to changing cultural values. Accordingly, sociocultural resistance efforts' purpose is to change cultural values that support a continued value of female genital cutting. Because sociocultural resistance

efforts focus their efforts on resisting cultural values, this type of effort is the compliment to the legal or governmental resistance effort; instead of quantitative resistance, sociocultural resistance efforts center their strength on qualitative resistance. Moreover, this form of resistance effort desires qualitative eradication where its desired end result is to reduce attitudes that support female genital cutting.

Because sociocultural resistance efforts seek to reduce the cultural value of female genital cutting, African women resist many of the cultural values and institutions that socialize them into their communities. As explored in the chapter on female genital cutting, these cultural values include aesthetics or beauty, economic status or dependency, sexuality, and virginity; all of these values uphold the cultural value of female genital cutting. In addition to the cultural values, there are also the cultural institutions of gender, identity or ethnicity, and work; these cultural institutions are even more difficult to resist because they operate on an unconscious level within the cultural realm. Consequently, sociocultural resistance efforts are more strenuous in their efforts because they seek a more ideological reduction of female genital cutting.

Because female genital cutting is an important development in a young girl's membership to her community, the resistance to the practice is also resisting a communal celebration of puberty. It is debated as to whether puberty should be celebrated with elaborate festivities such as initiation ceremonies, or if it should be kept silent within the community. This debate refers to the public versus private dichotomy: bringing a private issue such as a young girl's development into a public arena such as the community. Beyond this public/private dichotomy, the value a culture places on a young girl's changing body correlates with its valuing of initiation in the culture. Accordingly, the

initiation ceremony may serve as the final phase of developing a young girl into a woman. The initiation ceremony also serves to protect young girls during their development by surrounding them with other young women undergoing the same changes; this is the case in the Bundo secret societies that prepare young women for their female genital cutting procedures. Thus, the sociocultural resistance effort focuses on resisting the value of female genital cutting as part of the procedure or ceremony that initiates young girls into womanhood.

### **Type(s) of Sociocultural Resistance Efforts**

Because sociocultural resistance efforts aim for complete eradication of the practice, they seek to significantly reduce the attitudes and values that perpetuate female genital cutting. In order to understand the types of sociocultural resistance efforts, it is necessary to perceive female genital cutting as a rite of passage ritual or ceremony. Once that is understood, sociocultural resistance efforts take on the form of alternative rite of passage ceremonies. Instead of female genital cutting as the focus of these initiation ceremonies, sociocultural resistance efforts propose alternate rituals or methods for achieving the same status within society. Moreover, sociocultural resistance efforts also take on the form of alternative cutting procedures; these procedures may or not be connected to alternative rite of passage ceremonies.

Because female genital cutting is so closely related to becoming a member of a young girl's community in Africa, cutting is often associated with maturation and female identification. However, the resistance effort acts as the new form of maturation and female identification because it replaces the act of cutting. Instead of undergoing the procedure, sociocultural resistance efforts support newer methods of maturation and

female identification that adhere to certain cultural values. One such method, the Youth Camp in the Gambia, is explored in the next chapter.

### **CONCLUSION**

The importance of domestic resistance efforts is that they allow African women to fight against female genital cutting within the practicing cultures. Understanding and experiencing the cultural constructions of this practice create more effect resistance because these movements are targeted to those who undergo the procedure. Moreover, preventing future female genital cutting practices is a difficult task. Accordingly, women who are the most impacted by female genital cutting are the most appropriate group to attempt the fight against the cultural tradition.

## **- EXAMPLES OF DOMESTIC OPTION: AFRICAN RESISTANCE -**

The local efforts toward building a movement to resist female genital cutting are a worthwhile choice for African women because they allow women to stay within their own country's borders while resisting female genital cutting. There are legal and governmental resistance efforts, which focus their resistance in quantitative eradication. One example of governmental or legal resistance efforts is the medicalization of female genital cutting. In addition to these quantitative efforts, the sociocultural resistance efforts attempt qualitative eradication. One example of a sociocultural resistance effort is the Association for Promoting Girls' and Women's Advancement in the Gambia (APGWA)'s Youth Camp on Traditional Practices. Both examples are various forms of these two types of resistance efforts.

### **EXAMPLE OF LEGAL RESISTANCE EFFORT**

Because the purpose of legal resistance efforts are to change legislation in making female genital cutting illegal, an example of this type of resistance effort is the proposed medicalization of the practice. The nature behind this form of resistance is multifaceted because there is no perfect example of medicalization; medicalization programs still occur as the female genital cutting occurs. Accordingly, much of the discussion on medicalization efforts are either approached from a medical or cultural standpoint; physicians analyze the medical practices and consequences of female genital cutting while members of a culture analyze the personal and social effects of the medicalization.

The first group where medicalization is debated is within the medical field with physicians who are in daily contact with female genital cutting. Many African physicians' views depend on the cultural context in which they perform their occupation.

Many physicians are reluctant to propose medicalization as an effort towards eradication because they fear that medicalization is not culturally appropriate to their female patients. In an interview with Nigerian physicians, many supported medicalization as a temporary resistance effort only if total eradication is not feasible. In a 1997 study of 250 Nigerian doctors

20 percent of the 250 practitioners support the idea [of medicalization]. Supporters explain that if the practice of ‘circumcision’ cannot be eradicated completely, then it is in the interest of the girl or the woman to have the procedure performed safely. It should be carried out by adequately trained gynecologists, urologists, or general practitioners in good health centers not only to minimize the pain and trauma of the procedure but also to prevent complications.<sup>148</sup>

Nigerian physicians recognize that female genital cutting is a health issue that must be improved with culturally-appropriate means. This analytical group recognizes that if the procedure must continue then it must continue as safely as possible.

The second group that analyzes medicalization as a resistance effort is the members of a culture that experience the effects of female genital cutting firsthand. Because these women undergo the procedure, they determine whether quantitative resistance efforts such as medicalization are truly valuable. For the Rendille, a practicing Nomadic culture in Northern Kenya, medicalization becomes a method for safer procedures rather than an immediate resistance effort. Even though female genital cutting is practiced within their culture,

The most obvious recent change in the practice of female ‘circumcision’ has been the gradual adoption of medical treatment to prevent infection. Each of the settled communities are served by mission-sponsored dispensaries staffed with trained nurses. These health practitioners have encouraged families to bring girls [...] to the clinic to receive an antitetanus injection and antibiotics the day before being

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<sup>148</sup> Mairo Usman Mandara, “Female Genital Cutting in Nigeria: Views of Nigerian Doctors on the Medicalization Debate” in *Female ‘Circumcision’ in Africa: Culture, Controversy, and Change. Directions in Applied Anthropology*, eds. Bettina Shell-Duncan and Ylva Hernlund (Boulder, Colorado: Lynne Rienner Publishers, Inc., 2000), 104.

circumcised, and families are instructed to purchase a new sterile razor blade...Among the informants there was a widespread sense that medical interventions have been effective and that further education and certain efforts to minimize the health risks would be welcomed.<sup>149</sup>

The Rendille welcome medical interventions, translated into medicalization efforts, because they reduce the number of infected procedures that occur within the Rendille community. However, these medical interventions are only welcomed if they preserve the cultural significance of female genital cutting. Among the Rendille

Most women supported the idea of providing training for traditional circumcisers, but there was considerable debate over other suggested innovations: using anesthesia, decreasing the extent of cutting, employing a trained nurse to perform the excision, and performing the excision at a clinic.<sup>150</sup>

Because the Rendille value female genital cutting as an important sexual identification process, any process such as medicalization could devalue the procedure; thus, the Rendille are careful as to the degree of support they give to medicalization efforts.

Accordingly, medicalization as an example of legal or governmental resistance efforts is a complex issue because it must be culturally-relevant. For medicalization to be successful, African women must analyze their own unsafe medical procedures and determine where medicalization efforts are optimal. Even though many members of African society recognize the health risks of female genital cutting, medicalization only becomes a resistance effort to decrease the number of unsafe procedures. And while the ultimate goal of legal resistance efforts is to change legislation and make female genital

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<sup>149</sup> Bettina Shell-Duncan, Walter Obungu Obiero, and Leunita Auko Muruli, "Women Without Choices: The Debate over Medicalization of Female Genital Cutting and Its Impact on a Northern Kenyan Community" in *Female 'Circumcision' in Africa; Culture, Controversy, and Change. Directions in Applied Anthropology*, eds. Bettina Shell-Duncan and Ylva Hernlund (Boulder, Colorado: Lynne Rienner Publishers, Inc., 2000), 121.

<sup>150</sup> *Ibid*, 122.

cutting illegal, medicalization efforts promote a resistance in the field of public health where legislative efforts are more likely to be materialized in government.

### **EXAMPLE OF SOCIOCULTURAL RESISTANCE EFFORT**

In complimenting the legal efforts of medicalization, the Association for Promoting Girls' and Women's Advancement in the Gambia (APGWA)'s Youth Camp on Traditional Practices<sup>151</sup> is an example of a sociocultural resistance effort. More specifically, this Youth Camp is an attempt to reduce the cultural value of cutting through the means of alternative rites of passage. Because the APGWA's mission is to improve the condition of women and young girls in Gambian culture, female genital cutting is viewed as something for the organization to change. Consequently, the APGWA's Youth Camp was set up in Basse in May-June 1998 with the intention of initiating young girls into womanhood with a symbolic pronunciation of being cut. Furthermore, this Youth Camp follows similar concepts found in the Bundo secret societies in Sierra Leone where young girls enter an initiation period separate from the rest of their community.

In order to symbolically create this Youth Camp where young girls would learn the necessary tools for becoming initiated into woman culture in the Gambia, the Association for Promoting Girls' and Women's Advancement in the Gambia established several initiation activities to replace the traditional procedures. According to Ylva Hernlund, Professor of Anthropology at the University of Washington

The 'youth camp' teachings covered a range of topics, some 'traditional' and others not: marriage, pregnancy and childbirth, breast-feeding, safe motherhood, family planning, food and nutritional taboos, traditional/herbal medicines, public speaking methods, 'female genital mutilation,' sexually transmitted diseases including HIV, the role of the *ngansingba* [traditional circumcisers] and other leading women, 'positive and harmful traditional practices,' and various types of skills training. The trainers included five traditional circumcisers and several

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<sup>151</sup> Hernlund, 246.

herbalists/TBAs and local women leaders in addition to APGWA representatives.<sup>152</sup>

The teachings of the Youth Camp were supposed focused on the same types of teachings that a young girl would have to learn if going through similar cutting initiation procedures. Moreover, APGWA attempted to make the camp and initiation process as authentic as possible. In an effort to make the camp the most similar to actual cutting rites of passage

Roughly twelve hours a day were spent in a *jujuyo* (circumcision hut), which had been constructed in the back of the large compound of one of the local women's leaders. This square wooden structure with a straw roof and low, partial reed walls provided shade – if not privacy – for the girls, sitting closely together on straw mats on the ground, their legs stretched out straight in front of them and their faces downcast. The elder women sat on benches and folding chairs around a *djetango* (waterdrum), a large calabash floating upside down in a basin of water and beaten with a stick by women, who are 'not supposed to beat real drums.' All teaching was done in the traditional manner of songs, dances, questions and answers, recitation, and repetition. Although there was no corporal punishment, trainers did symbolically cane and reprimand girls for lapses in obedience and respect.<sup>153</sup>

The communal residency of the young girls over the two weeks enforced the initiation period because the girls were learning together how to become women within their culture. In culminating their two-week initiation period, alternatives to cutting occur. A celebration of youth is publicly applauded.<sup>154</sup> Moreover, dancing and singing initiate the beginning phases of the cutting period such that the end of the two weeks is when the alternative cutting procedure is conducted.

As the culmination of the two-week initiation process, the alternative circumciser brings all the girls together for their special ceremony. Although it is usually the case

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<sup>152</sup> Ibid, 247.

<sup>153</sup> Ibid.

<sup>154</sup> Ibid, 248.

where young girls undergo the cutting and then are they only determined to be women within their culture, it is the experience of the alternative cutting that classifies these young girls as women in this Youth Camp. Hernlund writes

In the morning of the last day, the initiates were taken through the streets and market to the spot by the river where girls are normally ‘circumcised.’ Under a huge kapok tree, the girls sat for several hours with heads covered, while the senior women encircled them, waving fresh tree branches, singing, and dancing. In the afternoon an elaborate public ceremony was held at the outdoor Community Center, the girls proudly emerging in matching cloth and traditional hair ornamentation of cowry shells and red and white beads. The initiates performed songs and dances, many of which they had not known prior to the camp. In addition, there were speeches by various community leaders and the presentation to each of the girls and women involved of a Certificate of Participation. After an all-night celebration of singing, dancing, drumming, and feasting, the girls returned to their families the next morning, but only after making a semipublic pledge: ‘I promise never to circumcise my daughters.’<sup>155</sup>

The act of the alternative cutting is meant to replace the physical harm inflicted among girls caused by female genital cutting. Furthermore, the significance of the final pledge directly refers to the mission of the Youth Camp, which is to improve the condition of women and young girls. If complete cutting procedures are carried out in this culture, APGWA views women and young girls’ situation to be significantly devalued.

Accordingly, the Youth Camp in Basse is a unique example of a sociocultural resistance effort because it successfully implements a generational disgust with the cutting practice. Rather than the continuation of female genital cutting into future generations, APGWA’s purpose of improving women and young girls’ situation is achieved by improving the current condition without a threat of harmful health risks. Moreover, it is also successful because it devalues the significance of cutting and replaces it with a symbolic ceremony to represent an initiation process, which is often the ultimate goal of the practice in the first place.

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<sup>155</sup> Ibid, 248-249.

## CONCLUSION

The resistance efforts of medicalization and alternative cutting ceremonies are significant options for women seeking to escape female genital cutting within their own communities. African women can attempt to work with government health initiatives such as government-sponsored physicians in order to reduce the number of unsafe cutting procedures in their communities. African women can also raise awareness about alternatives to traditional cutting practices through the means of educating fellow women to stop the continuation of the practice in future generations. Consequently, even the smallest effort within the domestic arena is seen as resistance because it prevents at least one future girl undergoing female genital cutting.

## **- EVALUATION OF OPTIONS -**

Both the international and domestic options are potential options for African women seeking to improve their situation in the face of female genital cutting. More specifically, the international option of asylum is an option that takes African women out of their own countries and places them into other countries. In addition, the domestic option of resistance efforts works to engage African women's own voices within their own borders. Even though both options have many advantages for African women's experiences fleeing female genital cutting, which is discussed in previous chapters, the focus of this chapter is to compare each option's disadvantages. First, I explore the disadvantages of the international option; I highlight the history of women being marginalized within the asylum process, the environment or atmosphere of detention and abuse or maltreatment, and then question when this option is no longer viable for African women. Second, I analyze the disadvantages of the domestic option; I examine the historical resistance to female genital cutting, a critique of each type of resistance effort, and then question when this option is no longer a viable option. Lastly, I argue that both options must be utilized in a self-directed process so that the best decision is made for the African woman.

### **DISADVANTAGES OF THE INTERNATIONAL OPTION**

Because the previous chapter on the international option indirectly presented the advantages of asylum law, this chapter weighs the disadvantages of asylum law. Asylum law is determined to be an important option for African women seeking outside protection from other governments, yet there are difficulties they face within the asylum process. Throughout the history of asylum law, women are marginalized within

legislative developments and other asylum processes. Moreover, the environment of the pre-asylum condition is not women-friendly because it detains women in prisons and leads to poor mental health among the female detainees. Accordingly, the feasibility of asylum as an international option for African women remains a debatable issue.

### **History of Female Marginalization**

Because women are historically marginalized within the asylum process, the international option of asylum is a historically disadvantaged option. Asylum is a historically disadvantaged option for women in this case because they are marginalized through the development of asylum policy. More specifically, the development of asylum policy historically marginalizes women for two reasons: women are not seen as worthy citizens and women are not seen as worthy immigrants. Women were seen as unacceptable independently of immigrant status, yet an even worse marginalization occurred when the two statuses combined. According to Martha Gardner, Professor of History at DePaul University, women's relationship with immigrant status was dynamic. In relating women's familial roles to immigration developments, Gardner writes

If marriage for immigrant women linked consent with citizenship, the 1855 law said nothing about the status of American-born women. With the arrival of ever-greater numbers of immigrants whose presence was seen to challenge the racial and moral parameters of citizenship in the later decades of the nineteenth century, the civic status of American women who married these foreign elements became an important matter of public policy. Beginning in 1907, not only did white or black immigrant women who married citizens become citizens, but American women who married noncitizens became noncitizens. Private became public as citizenship law created a notion of families with male citizens as their political expression.<sup>156</sup>

Accordingly, women immigrants encompassed a marginalized status within the development of immigration policy because their citizenship was dependent on male

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<sup>156</sup> Martha Gardner, *The Qualities of a Citizen; Women, Immigration, and Citizenship, 1870-1965* (Princeton, NJ: Princeton University Press, 2005), 123.

citizenship. Because women were not seen as worthy members of society, their ability to achieve asylum was not valued independently of men because asylum was only granted to those who had potential for citizenship. Moreover, the emphasis on male citizenship is rooted in the historical concept of coverture; this concept of male superiority and control over women is the basis for early immigration policy.<sup>157</sup> Thus, the difficulty in viewing women immigrants as potential citizens leads to marginalized historical experiences.

### **Environment of Detention and Abuse or Maltreatment**

In addition to the women being historically disadvantaged through the asylum process, the environment of detention and abuse is a manifestation of the international option's current disappointment to women. Asylum is a disappointment to women because it breeds an atmosphere of maltreatment where women are viewed negatively within this detention. First and foremost, immigrants are viewed as immoral in our society. In continuation from the historical marginalization of women in immigration policy, attitudes toward immigration currently exhibits restricting trends due to the various occurrences within modern society. Michael Welch, faculty member at Rutgers University, reasons that immigration, and immigrants, is viewed with a sense of moral panic. Coined by sociologist Stanley Cohen, Welch explains Cohen's definition to be "[When] a condition, episode, person or group of persons emerges to become defined as a threat to societal values and interest; its nature is presented in a stylized and stereotypical fashion by the mass media and politicians."<sup>158</sup> Welch also emphasizes moral panic as a situational or contextual phenomenon. According to Welch

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<sup>157</sup> Kevin R. Johnson, *The 'Huddled Masses' Myth; Immigration and Civil Rights* ( Philadelphia: Temple University Press, 2004), 124.

<sup>158</sup> Michael Welch, *Detained; Immigration Laws and the Expanding I.N.S. Jail Complex* (Philadelphia: Temple University Press, 2002), 9.

Moral panic helps us to understand turbulent societal reactions to immigration, which lead to a disaster mentality in which there is a widespread perception that immigrants endanger American society. Indeed, such perceptions of threat perpetuate stereotypes of immigrants as intellectually inferior, morally corrupt, and prone to crime – and worse terrorism. As moral panic mounts, there is a sense of urgency to do something now or else society will suffer even graver consequences later, compelling social policy to undergo significant transformation in a rash attempt to diffuse the putative threat.<sup>159</sup>

Moral panic is an indicator of how society views immigrants and asylum seekers.

Especially when it comes to those individuals who come from other countries, a strong tendency to view outsiders as immoral is prevalent among social discourse. Thus, there are many issues that influence the marginalization of women and other immigrants within immigration policy.

This sense of moral panic towards a generalized immigrant is only one indicator of how women are disadvantaged within the current asylum option. Women who seek asylum are looked down upon more than other asylum seekers. Following the historical marginalization of women through developing policy, female asylum seekers are viewed even more negatively because their female identity is inherently inferior. Sylvie Frigon, who contends that women within prison are seen as deviant and meant to be confined by society, argues that women asylum seekers are seen as socially deviant because they enter a new country illegally based on misinformed justifications.<sup>160</sup> Moreover, Welch's position on the negative view of women asylum seekers is that they are viewed as criminals to be treated poorly by the INS, which is supposed to provide support for asylum seekers. This sense of deviance among women allows for an acceptable value of abuse among the immigration system.

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<sup>159</sup> Ibid, 10.

<sup>160</sup> Sylvie Frigon, "Body Talk: Chronicles of Women's Experiences in Prison" in *Out of the Ivory Tower; Feminist Research for Social Change* Eds. Andrea Martinez and Meryn Stuart (Toronto: Sumach Press, 2003), 132.

Consequently, there are numerous accounts of physical abuse of female detainees due to the accepted devaluing women immigrants and women asylum applicants. One form of this physical abuse is sexual violence. Because the female asylum applicant or detainee is seen as deviant, this deviant behavior is transferred to the body where the woman becomes objectified. Thus, female detainees are viewed as prisoners worthy of violence because they are social deviants. According to Frigon

For women who share a cell with only one toilet, chronic constipation problems often occur. The loss of intimacy and the loss of control over their lives, their bodies and their health tend to produce a sick, mutilated body. According to *Creating Choices*, some imprisoned women feel as though they have lost the control over their own bodies, which is exacerbated by their inability to access medical advice and medication.<sup>161</sup>

The nature of detention instills a sense of victimization in women that does not allow them to achieve the quality of life they seek from the asylum process. In addition, the placement of women asylum applicants in detention centers of prisons leads to health problems. Even though women's health problems follow them regardless of culture, there are culturally-accepted problems that are recognized within the immigration system and those that are not. Elizabeth J. Kramer, Susan L. Ivey, and Yu-Wen Ying, all practicing physicians and medical scholars, recognize certain symptoms and physical disorders that arise from immigrant status. Kramer, Ivey, and Ying highlight somatization disorders,<sup>162</sup> neurasthenia,<sup>163</sup> and culture-bound syndromes.<sup>164</sup> Many of these physical symptoms and

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<sup>161</sup> Ibid, 145.

<sup>162</sup> Cora R. Hoover, "Somatization Disorders" in *Immigrant Women's Health; Problems and Solutions* Eds. Elizabeth J. Kramer, Susan L. Ivey, and Yu-Wen Ying (San Francisco: Jossey-Bass Publishers, 1999), 233.

<sup>163</sup> Pamela Yew Schwartz, "Neurasthenia" in *Immigrant Women's Health; Problems and Solutions* Eds. Elizabeth J. Kramer, Susan L. Ivey, and Yu-Wen Ying (San Francisco: Jossey-Bass Publishers, 1999), 242.

<sup>164</sup> Anthony T. Ng, "Culture-Bound Syndromes" in *Immigrant Women's Health; Problems and Solutions* Eds. Elizabeth J. Kramer, Susan L. Ivey, and Yu-Wen Ying (San Francisco: Jossey-Bass Publishers, 1999), 249.

disorders lead to the typical emotional symptoms due to increased concentration of victimization.

In response to the physical abuse caused by the detention and maltreatment, emotional abuse also occurs whether it is intended or not. While it is possible for the female asylum detainee to internalize her physical stress, emotional stress can also come from outside sources such as prison guards. Inger Agger, psychologist and senior researcher at the Center for Psycho-Social and Traumatic Stress, believes that women are especially vulnerable to psychological trauma when imprisoned. Agger argues that

When aggression and sexuality are intertwined, it is especially difficult to maintain a psychological defense, particularly to defend yourself against the sense of shame at being an accomplice to the forbidden deed; this can threaten the innermost, most central part of your identity. The widespread use of sexual assault against political prisoners can, therefore, be seen as effective strategy if the aim is to break down a political opponent's personal identity – and thereby also her *political* identity.<sup>165</sup>

The partnership between aggression, which represents the social acceptance of imprisonment, and sexuality, which symbolizes the objectification of women's bodies, creates the ideal environment for emotional distress and trauma. Consequently, women are disadvantaged within the asylum process because their secondary victimization reminds them of the victimization they are fleeing from their country of origin.

### **Is it a Feasible Option?**

The international option of asylum is a feasible option. It is a valid response to an international problem. However, the difficulty with the option's feasibility lies in its application and its context. Although asylum is a valuable international option, it is only beneficial in certain situations. Women pursue asylum for the purpose of seeking

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<sup>165</sup> Inger Agger, *The Blue Room; Trauma and Testimony among Refugee Women – a Psycho-Social Exploration* (London: Zed Books Ltd, 1992), 8.

protection in another country. However, it is up to the country of asylum to determine whether the woman is justified in her claim of persecution. While waiting for her asylum decision, the woman is detained within the country's transitional territories of prisons or detention centers. The international option of asylum is feasible for women, yet it is only successful and feasibly valued when its purpose is assured. The option of asylum stops being feasible when women are no longer protected under international asylum laws. When women continue to feel persecuted or fearful for their lives within a secondary community in which they have gained political protection, asylum is no longer a feasible option for women fleeing persecution in other countries.

### **DISADVANTAGES OF THE DOMESTIC OPTION**

Similar to the international option, the disadvantages of the domestic option are not discussed. The advantages are discussed in a previous chapter, which center on African women's ability to resist their own culturally-relevant practice of female genital cutting. However, disadvantages exist within the domestic option. Within the legal or governmental resistance efforts, true quantitative resistance or eradication is near impossible with such a historically-significant practice like female genital cutting. In sociocultural resistance efforts, true qualitative resistance efforts are difficult to be effective for fear of judging a procedure that upholds cultural values. Therefore, the domestic option of resistance efforts is an important option for African women seeking to escape female genital cutting within their own countries.

### **Historical Resistance of the Procedure**

Because the source of the domestic option is resistance efforts, women historically resist their cultural roles in society. According to Dorothy L. Hodgson and Sheryl A. McCurdy

Women responded to the shifting patterns of political authority, economy, and colonially sponsored propaganda by challenging each other, African men, and colonial authorities. Across the continent, women used local institutions like song and dance groups to express their anger and frustration over the rapid and sometimes violent changes in local practices and relationships. Some, like the *Nwaobi* dancers in Nigeria, used their songs to demand a return to precolonial social ideals and practices of betrothal, marriage, chiefly authority, and gendered division of production and consumption. Others responded to the changing political and economic system by collective attacks on colonial and native authorities or defiantly refusing to obey orders.<sup>166</sup>

Even in early periods of history, women were discontent with cultural practices that oppressed them. Consequently, women have continually been able to find a voice of resistance. Regardless of what type or degree of harmful practice women are up against, they do not hesitate to raise their voices in resistance to these culturally-oppressive procedures. However, these procedures are oppressive in nature for the very fact that these cultures are women in the eyes of their culture. The biggest difficulty in resisting such historically-prevalent practices like female genital cutting is that they are so engrained in establishing cultural roles. Accordingly, one of the biggest critiques of the domestic option is that it is near impossible to resist cultural attitudes that perpetuate the historical continuity of traditional practices.

### **Critique of the Legal/Governmental Resistance Efforts**

As one form of the domestic option, legal resistance efforts show some disadvantageous to African women seeking to escape female genital cutting in their own

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<sup>166</sup> Dorothy L. Hodgson and Sheryl A. McCurdy, "Introduction: 'Wicked' Women and the Reconfiguration of Gender in Africa" in *"Wicked" Women and the Reconfiguration of Gender in Africa* Eds. Dorothy L. Hodgson and Sheryl A. McCurdy (Portsmouth, NH: Heinemann, 2001), 12.

borders. Because the focus of legal resistance efforts is to quantitatively reduce female genital cutting through the sheer numbers of the procedure, this type of resistance is disadvantaged because it only focuses on quantity and not quality. The goal of this type of resistance effort is to create legislation that would make it illegal for female genital cutting to be practiced in each country. However, the likelihood of successful development of legislation is dependent on the country's willingness to change its political tendencies. Moreover, a country's politics of equality greatly influences its willingness to incorporate newer laws that center on a gender-specific cause.

The willingness to develop newer gender-specific laws is also dependent on the amount of representation women have within the current government. If a country's current political administration does not recognize female genital cutting as oppressive to a particular body of their public membership, it will not make laws protecting this group. Consequently, women are disadvantaged within legal resistance efforts because they rarely directly impact new developments in legislation against female genital cutting due to their under-representation. On the contrary, the likelihood that governmental educational initiatives or health programs will drastically reduce the number of female genital cutting procedures is unpromising even when there is the slightest chance that legal efforts may be possible.

### **Critique of the Sociocultural Resistance Efforts**

The other form of domestic resistance efforts, sociocultural resistance, is disadvantaged because of its goal. Similar to its domestic counterpart of legal resistance, sociocultural resistance attempts to qualify its resistance by reducing cultural attitudes. The ultimate goal of the sociocultural resistance effort is to change the minds of its

cultural constituents. However, the probability of women changing the minds of their fellow community members is questionable. The difficulty lies with the permanency of this cultural resistance; are community members temporarily resisting cultural attitudes in order to satisfy their female friends, or are they truly taking the cultural resistance to heart and mind? Because one can rarely determine underlying motives for action or inaction, it is near impossible to permanently change the opinion of others that female genital cutting is a valuable cultural practice.

In addition to transferring and internalizing resistance, another disadvantage to the domestic option and sociocultural resistance efforts in particular is the effectiveness of these alternative ceremonies to female genital cutting practices. Although these practices include alternative rite-of-passage ceremonies and alternative cutting procedure, they still attempt to provide an alternative to female genital cutting. In reference to the Youth Camp in Basse, Hernlund writes

Perhaps alternative rituals are not broadly applicable, but in the Gambia this experiment deserves serious consideration as one strategy not only to influence the practice of genital cutting but also to more broadly contribute to women's empowerment and aid in the maintenance of what is perceived as positive traditional practices while defusing often volatile debates over cultural autonomy and authenticity.<sup>167</sup>

These alternative rituals have positive purposes, yet they are still restrictive because they operate within the cultural system that female genital cutting is necessary. The problem with these alternative rituals or ceremonies is that they indirectly refer to female genital cutting; simply replacing the physical harm with an undamaging act does not remove female genital cutting from the ceremony. Although it is arguable that this alternative ceremony aims to keep the procedure culturally-relevant, it neglects to achieve the

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<sup>167</sup> Hernlund, 250.

desired goal of eradicating the attitudes that perpetuate female genital cutting. The attitudes that support the cultural importance of the practice still remain in this context, yet they are masked by the desired result of quantitative resistance.

### **Is it a Feasible Option?**

The domestic option of resistance efforts is a feasible option for African women fleeing female genital cutting within their own physical boundaries because it keeps them in their comfort domain. Rather than moving outside of their countries, they attempt resistance within familiar constructs, institutions, and systems. Moreover, the domestic option allows African women to use their own voice first before taking on a foreign voice in a new country. Within their own countries, African women also have the potential to educate and raise awareness of fellow women in order to spread resistance movements against female genital cutting procedures. Consequently, resistance efforts are feasible because they empower African women to believe they can effectively change their situation.

On the contrary, the domestic option is disadvantageous and often damaging to African women's hopes because they still must work within the cultural system that perpetuates female genital cutting. African women are continually physically oppressed within their communities. In extreme situations, African women are socially discounted if they do not support female genital cutting; they are viewed as social outcasts and often not even seen as women in their culture. Under the domestic option of resistance efforts, women still must live with the expectancy of female genital cutting even if they oppose its cultural tradition.

## **CONCLUSION**

Both the international option of asylum and the domestic option of resistance efforts have their advantages and disadvantages for African women. Yet for African women seeking to escape an African practice, it is difficult to determine which option is the best for them. Neither the international nor the domestic options are better options for African women because they neglect to embrace the entire process of the individual and the practice; each opportunity by itself ignores the past, present, and future of each African woman and the practice of female genital cutting. Therefore, African women should incorporate the advantages of the international and domestic options in order to decide what option is best for them. If one option must be sought instantaneously, it is arguable that the resistance efforts be attempted first because they are the most contextually-relevant to African women. Once the domestic option is tried and fails to improve the African woman's quality of life, the international option of asylum should be tried; asylum should only be tried when all other options are exhausted. The reason asylum exists as an international option is because women cannot escape a fear of persecution in their own country. Accordingly, the best option for African women fleeing female genital cutting in their own African countries is two-fold; first, they should resist persecution using their own voice and then resist persecution using the voice of others.

## **- QUESTIONNAIRE AND ITS APPLICATION -**

Using the evaluation process, it is evident that what is best for one woman is not best for every woman. This evaluating method, which seeks to determine the best option for African women escaping female genital cutting, attempts to lead women to the international option of asylum or the domestic option of resistance efforts. However, this evaluation process is limiting because it restricts African women to two choices: the international or domestic selection. Therefore, the questionnaire below deconstructs the dualistic nature of the evaluation method. The purpose of the questionnaire is to become a tool for consciousness-raising among communities of African women so that they are able to decide what option is best for them.

### QUESTIONNAIRE

	Strongly Disagree  <b>1</b>	Disagree  <b>2</b>	Neither Disagree nor Agree <b>3</b>	Agree  <b>4</b>	Strongly Agree  <b>5</b>
I feel like an outsider in my own community.					
I believe in the goodness of others.					
I am willing to endure temporary discomfort for permanent satisfaction.					
I believe there is a better world beyond my community.					
I do not feel comfortable voicing my opinion to my peers.					
I do not feel safe knowing what my future holds for me.					
I value the power of my own voice over others' voices.					
I believe I make the ultimate decision in determining my happiness.					
I believe in deconstructing gender roles.					
I embrace change.					
I do not believe in asking for help from people I do not know.					
I do not like being judged by people who do not understand my situation.					
I value my life separate from my role in my community.					
I value female genital cutting in my life.					
I am not satisfied with my current situation.					

## ITS EXPLANATION AND APPLICATION

Upon reading the questionnaire, there are several elements to notice in its design and usefulness. The first aspect to the construction of the questionnaire is the selection and formation of the questions in the questionnaire. Secondly, the application of the Likert Scale and its formation of evaluating the questions is another important topic of discussion. Lastly, the underlying theme throughout the questionnaire is necessary in establishing a common goal for the individuals filling out the questionnaire. In addition to explaining the formation of the questionnaire, its application is equally significant.

### **Explanation**

In first approaching the questionnaire, the text of the questionnaire must reflect the goals of the questionnaire. The goals of the questionnaire are to be both evaluative and informative for the women determining which option is best for them. In order to truly evaluate the most appropriate selection for African women, who are the most likely audience of the questionnaire, the questions should be free from judgment and indirectly refer to the international and domestic options. Moreover, the treatment of refugee women is a sensitive issue; thus, the appropriate wording for the questions must be carefully placed in order to correctly distinguish between each statement. Inger Agger, psychologist and senior researcher at the Center for Psycho-Social and Traumatic Stress, believes that treatment of refugee women must be met with an examination of women's ethnography, anthropology, and cultural history.<sup>168</sup> In accordance with Agger's treatment theory, the questionnaire's statements are appropriate because they are universally applicable to all women; however, the desired audience for those who take the questionnaire are women who live with some experience of female genital cutting.

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<sup>168</sup> Agger, back cover.

Secondly, the questionnaire's statements are relative to the questionnaire's goal because they seek to be nonjudgmental of the culture that practices female genital cutting. Lastly, the statements intentionally focus on the current situation and future of women so that various cultural histories do not conflict with each other in the process.

Having established a series of questions or statements for evaluation, the appropriate format of the questionnaire is debatable. Because the purpose of the questionnaire is to gauge the values and feelings of the African women filling out the questionnaire, a yes or no answer to the questionnaire is an inappropriate measurement. In determining the most appropriate measurement for the situation, the Likert Scale is the best measuring method for getting the desired results. The Likert Scale is constructed so that there are various degrees of agreeability with the statements in the questionnaire. In this case, the statements are assigned numeric value, which are associated with degree of agreement or disagreement. This agreeability or disagreeability scale allows the individual taking the questionnaire to converse with the statement in a way that continues an unconscious awareness of dissension of personal values. Beyond constructing the questionnaire within the Likert Scale foundational structure, the order of the statements in the questionnaire is important. To ensure the validity of the questionnaire, the wording of the questions are purposefully randomized so that the individual must comprehend the statement before evaluating it; several questions are posed from a negative standpoint while others are posed from a positive perspective. Lastly, the questions are randomized to avoid repetition of consecutive statements referring to one option or the other.

Once the statements are designed within the framework of the Likert Scale, the underlying theme of the questionnaire is revealed. With the selection of statements, the

questionnaire allows for each woman to input their own voice and take away a different voice after completing the form. It is the goal of the questionnaire to get African women thinking about what these value and belief statements mean to them. Consequently, another underlying theme of the questionnaire is to gain a new perspective on African women's quality of life. The questionnaire should create a narrative or dialogue for African women seeking responsibility over their lives within their communities. Regardless of the degree to which female genital cutting influences their lives, African women should feel in control of pursuing this questionnaire.

### **Application**

Although briefly mentioned in the explanation section, the questionnaire's ultimate goal is to become a tool for feminist consciousness-raising in the decision or evaluation process. Given the basis for the questionnaire, which focuses on agency, control, responsibility, and self-determination, the questionnaire is for African women to utilize this tool how they see it most applicable to their lives. Because it was written from a specific perspective, a European-American feminist, there will unconsciously be unintended biases in the questionnaire. Biases can be problematic, yet understanding the perspective and approaching the questionnaire with that understanding has the potential for dialogue. Accordingly, the questionnaire is a proposed methodology for African women attempting to better their current situation often under the conditions of female genital cutting. Regardless of the intentions behind the questionnaire, African women will be the group to determine if it is applicable or not.

## - CONCLUSION -

Given the circumstances under which African women live with female genital cutting, it is difficult to determine the future of this group's quality of life. Many women undergoing the procedure accept it as cultural tradition because their grandmothers, aunts, and mothers were cut too. However, some African women are becoming aware of the possibility that they do not have to go through the procedure to be members of their culture. Although female genital cutting is only one cultural practice, its impact is not isolated.

Female genital cutting must be addressed within feminist discourse because it affects a culture of women. Moreover, feminist theory has an obligation to analyze female genital cutting because it touches upon the fundamental issues of feminism. Women's equality must be addressed in the context of these African cultures where the procedure occurs. Social constructions of gender should be analyzed in the formation of the feminine where female genital cutting is often the marker of femininity. Most importantly, women's choices must be addressed because where there are limitations to life there are often limitations to women's happiness.

While currently in the third wave of the feminist movement, this phase in feminist discourse brings new emphasis on relationships with other women. Specifically, third wave feminism strongly emphasizes relations among women around the world. Accordingly, women in the United States ought to have dynamic relationships with women in Africa. This global connection of women establishes a sense of obligation to one another as women care for one another's happiness and freedom. Women must

recognize internal biases and perspectives based on location, but then continue to forge friendships and relationships with that knowledge.

Feminist discourse tends to judge female genital cutting because it sees it as harmful to African women. This belief may very well be true, yet it is our personal obligation to seek out women who undergo female genital cutting and ask them if they believe themselves to be harmed. We must be reminded that feminist discourse encourage dialogue and narrative, so it is necessary to hear personal stories of women undergoing female genital cutting. Without dialogue and narrative, African women cannot exert agency and personal freedom to show other women around the world that they have a voice. African women must not only fight to resist female genital cutting in their countries, but they must also fight to resist the negative judgments of their culture and their individual voice.

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