Home Office

Country Policy and Information Note
Kenya: Female Genital Mutilation (FGM)

Version 1.0

June 2021

Preface

Purpose

This note provides country of origin information (COI) and analysis of COI for use by Home Office decision makers handling particular types of protection and human rights claims (as set out in the Introduction section). It is not intended to be an exhaustive survey of a particular subject or theme.

It is split into two main sections: (1) analysis and assessment of COI and other evidence; and (2) COI. These are explained in more detail below.

Assessment

This section analyses the evidence relevant to this note – i.e. the COI section; refugee/human rights laws and policies; and applicable caselaw – by describing this and its inter-relationships, and provides an assessment of, in general, whether one or more of the following applies:

- A person is reasonably likely to face a real risk of persecution or serious harm
- The general humanitarian situation is so severe as to breach Article 15(b) of European Council Directive 2004/83/EC (the Qualification Directive) / Article 3 of the European Convention on Human Rights as transposed in paragraph 339C and 339CA(iii) of the Immigration Rules
- The security situation presents a real risk to a civilian's life or person such that it would breach Article 15(c) of the Qualification Directive as transposed in paragraph 339C and 339CA(iv) of the Immigration Rules
- A person is able to obtain protection from the state (or quasi state bodies)
- A person is reasonably able to relocate within a country or territory
- A claim is likely to justify granting asylum, humanitarian protection or other form of leave, and
- If a claim is refused, it is likely or unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers **must**, however, still consider all claims on an individual basis, taking into account each case's specific facts.

Country of origin information

The country information in this note has been carefully selected in accordance with the general principles of COI research as set out in the Common EU [European Union] Guidelines for Processing Country of Origin Information (COI), dated April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation's (ACCORD), Researching Country Origin Information – Training Manual, 2013. Namely, taking into account the COI's relevance, reliability, accuracy, balance, currency, transparency and traceability.

The structure and content of the country information section follows a terms of reference which sets out the general and specific topics relevant to this note.

All information included in the note was published or made publicly available on or before the 'cut-off' date(s) in the country information section. Any event taking place or report/article published after these date(s) is not included.

All information is publicly accessible or can be made publicly available, and is from generally reliable sources. Sources and the information they provide are carefully considered before inclusion. Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information, and
- whether the COI is consistent with and/or corroborated by other sources.

Multiple sourcing is used to ensure that the information is accurate, balanced and corroborated, so that a comprehensive and up-to-date picture at the time of publication is provided of the issues relevant to this note.

Information is compared and contrasted, whenever possible, to provide a range of views and opinions. The inclusion of a source, however, is not an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a brief footnote; full details of all sources cited and consulted in compiling the note are listed alphabetically in the Bibliography

Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email the Country Policy and Information Team.

Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. The IAGCI may be contacted at:

Independent Advisory Group on Country Information
Independent Chief Inspector of Borders and Immigration
5th Floor
Globe House
89 Eccleston Square
London, SW1V 1PN
Email: chiefinspector@icibi.gov.uk

Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the gov.uk website.

Contents

Assessment

Updated: 10 June 2021

1. Introduction

1.1 Basis of claim

1.1.1 Fear of persecution or serious harm by non-state agents because the person will be subjected to female genital mutilation (FGM).

1.2 Points to note

1.2.1 Sources may use various terms to refer to FGM, including female circumcision, female genital circumcision or female genital cutting, which may also be abbreviated to FGC or FGM/C. For the purposes of this note, it is referred to as FGM (see Definition and categorisation by type of FGM).

1.2.2 Where a child is granted asylum, their accompanying parents may also be eligible for refugee status or humanitarian protection. The act of enforced FGM on a child could result in their parents being subjected to persecution or serious harm where they are opposed to it. Decision makers should therefore consider whether, on the facts of each case, the accompanying parents require asylum on the basis of a well-founded fear of persecution.

1.2.3 General guidance on considering FGM is available in the Asylum Instruction, Gender Issues in Asylum Claims and the Multi-Agency statutory guidance on FGM.

Back to Contents

2. Consideration of issues

2.1 Credibility

2.1.1 For information on assessing credibility, see the instruction on Assessing Credibility and Refugee Status.

2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants).

2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the Asylum Instruction on Language Analysis).

Official – sensitive: Start of section

The information in this section has been removed as it is restricted for internal Home Office use.

Official – sensitive: End of section

Back to Contents

2.2 Exclusion

2.2.1 Decision makers must consider whether there are serious reasons for considering whether one (or more) of the exclusion clauses is applicable. Each case must be considered on its individual facts and merits.

2.2.2 If the person is excluded from the Refugee Convention, they will also be excluded from a grant of humanitarian protection (which has a wider range of exclusions than refugee status).

2.2.3 For further guidance on the exclusion clauses and restricted leave, see the Asylum Instructions on Exclusion under Articles 1F and 33(2) of the Refugee Convention, Humanitarian Protection and Restricted Leave.

Official – sensitive: Start of section

The information in this section has been removed as it is restricted for internal Home Office use.

Official – sensitive: End of section

Back to Contents

2.3 Convention reason(s)

2.3.1 Actual or imputed membership of a particular social group (PSG).

2.3.2 Women and girls in fear of FGM form a PSG in Kenya within the meaning of the Refugee Convention because they share an innate characteristic or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it **and** have a distinct identity in Kenya because the group is perceived as being different by the surrounding society.

2.3.3 In the country guidance case of VM (FGM-risks-Mungiki-Kikuyu/Gikuyu) Kenya CG [2008] UKAIT 00049, heard on 9 November and 18 December 2007, promulgated on 9 June 2008, the UK Asylum and Immigration Tribunal (UKAIT) held that: 'It is important to determine whether a Kenyan claimant who fears FGM belongs to an ethnic group amongst which FGM is practised. If so, she may be a member of a particular social group for the purposes of the 1951 Refugee Convention.' (paragraph 242 (1))

2.3.4 Although women and girls in fear of FGM in Kenya form a PSG, establishing such membership is not sufficient to be recognised as a refugee. The question is whether a person has a well-founded fear of persecution on account of their membership of such a group.

2.3.5 For further guidance on Convention reasons see the instruction on Assessing Credibility and Refugee Status.

Back to Contents

2.4 Risk

2.4.1 FGM is against the law in Kenya and its prevalence is declining. However, prevalence and decline are not uniform, with some groups of girls and women at greater risk of circumcision than others, dependent upon certain background characteristics (see Prevalence of FGM).

2.4.2 The majority of girls/women in Kenya have not undergone FGM. In 2014 among the 15-49 age group, 79% were not circumcised. This majority increases among younger girls/women, with 89% of the 15-19 age group recorded as not circumcised. However, the prevalence of FGM remains high in some regions and within certain ethnic groups (see Prevalence of FGM).

2.4.1 The Kenya Demographic Health Survey (DHS) data indicates a trend towards a reduction in the overall prevalence of FGM. An examination of the 3 most recent surveys (from 2003, 2008/9 and 2014) indicates that the percentage of women aged 15-49 who have been circumcised has fallen from 32% in 2003, to 27% in 2008/9, to 21% in 2014. Similarly, looking at the 2014 data on its own, an age-cohort decline is also apparent, as women aged 45-49 are much more likely to have been circumcised than girls aged 15-19 (40.9% and 11.4%, respectively) (see The Kenya Demographic Health Survey).

2.4.2 Ethnic groups and regions with historically high levels of FGM – Kisii, Maasai and Somali ethnic groups and the North Eastern region – have all recorded falls in prevalence but the fall has been relatively small and the overall prevalence remains high. Similarly, there has been little change among Muslims, where the prevalence has increased slightly to 51% (see Prevalence of FGM).

2.4.3 The 2014 DHS data reported that 83% of circumcised women aged 15-49 were cut by traditional agents and 15% were cut by a medical/health professional. Medicalization was higher among the younger age cohort (20% of circumcised girls age 0-14) and among some ethnic groups. Ethnic groups with higher levels of medicalized FGM also have high overall prevalence of FGM, such as the Abagusii/Kisii, Somali and Maasai (see Who performs the FGM procedure?).

2.4.4 The 2014 data also showed that the largest variations in FGM prevalence occured by region and ethnic group (there is some overlap between these 2 characteristics). The North Eastern province had the highest prevalence by far, at 97.5%. The next highest prevalence was in Nyanza at 32.4% and Rift Valley at 26.9%, while prevalence was lowest in the Western region at 0.8%. Four ethnic groups recorded a prevalence greater than 75%: Somali (North Eastern province), Samburu (Rift Valley province), Kisii (Nyanza province) and the Maasai (Rift Valley province) while 3 ethnic groups had a prevalence of less than 2% (Luhya, Luo and Turkana) (see The Kenya Demographic Health Survey).

2.4.5 Smaller variations also exist by religion, level of education, urban/rural area and wealth. Prevalence is higher among Muslims (religion overlaps with ethnicity and region), among rural rather than urban residents and among women in the lowest wealth quintile and women with no education (see Prevalence of FGM).

2.4.6 Kenya is unusual when compared against other countries which practise FGM as circumcision during infancy is low, with 2.3% of all circumcised girls/women cut below the age of 5 and 26.6% of procedures taking place between ages 5 to 9. However, these figures are higher when looking at the youngest age cohort of 15-19, where 2.8% of cutting took place below age 5

and 46.0% of cuts were performed at ages 5 to 9, suggesting an overall trend towards circumcising girls at younger ages. Age at cutting also varies by background characteristics, with cutting at below age 10 most prevalent among four ethnic groups: Kamba, Mijikenda/Swahili, Somali and Taita/Taveta. Muslim women are also more likely to be cut below age 10 than women of other religions. (see Age at which FGM is performed).

2.4.7 No information could be found in the sources consulted to suggest that secondary FGM is practised in Kenya, therefore a woman who has already undergone the procedure is unlikely to be at risk of FGM on return (see Bibliography and Definition and categorisation by type of FGM).

2.4.8 VM (Kenya) held that:

'Uncircumcised women in Kenya, whether Gikuyu/Kikuyu or not, are not as such, at real risk of FGM...

'In general, a woman and/or her child will only be at real risk of FGM if she comes from, or becomes connected by marriage, partnership or other family ties, to an ethnic group (or sub-group) where FGM is practised and the evidence shows that she is reasonably likely to be required by her parents, grandparents, or by others in a position of power and influence over her, to undergo FGM.' (paragraphs 242 (2) and (6))

2.4.9 In summary, VM (Kenya) found that uncircumcised girls/women in Kenya are not generally at risk of FGM but this will depend on the woman's circumstances, in particular, her ethnic background and whether she is required by others in a position of power or influence to undergo FGM.

2.4.10 Since the country guidance determination in VM (Kenya) the country situation has improved and a woman or girl is now less likely to be at real risk of FGM. Stronger laws have been introduced and enforced to reduce FGM, and the government has implemented a range of measures designed to eliminate the practice. There has been a steady overall decline in the prevalence of FGM in Kenya which began before VM (Kenya) was promulgated and which has continued since, although the decline has not been uniform across all regions and ethnic groups, with some girls and women at greater risk of circumcision than others.

2.4.11 Whether a woman or girl is at real risk of undergoing FGM will depend on her personal circumstances. The factors to be considered by decision makers when assessing risk include:

- ethnicity
- home region
- family history of circumcision
- religion
- wealth
- age
- level of education
- urban/rural location

- Family and community views on FGM

2.4.12 Girls and women from communities with a high prevalence of FGM who resist the procedure may experience social pressure and stigmatisation. However, in general, this treatment is unlikely to reach the threshold to constitute persecution or serious harm (see Societal attitudes).

2.4.13 Each case will need to be considered on its facts, with the onus on the applicant to demonstrate that they are at a real risk of FGM. For further guidance on assessing risk, see the instruction on Assessing Credibility and Refugee Status.

Back to Contents

2.5 Protection

2.5.1 Where the person has a well-founded fear of persecution from non-state actors, including 'rogue' state actors, decision makers must assess whether the state can provide effective protection.

2.5.2 VM (Kenya) held that:

'In law, an adult woman who does not consent to FGM may only rely upon making a complaint of assault under the criminal law. A woman may be placed under undue pressure by family, including her husband or partner and his family, and/ or community members, to agree to FGM for herself or for her child... There are only one or two examples of prosecution of those who have performed FGM, whether on children or women and sentences have been lenient.' (paragraph 242 (3))

2.5.3 The country information indicates that there are very strong grounds supported by cogent evidence to depart from the findings of VM (Kenya) on the availability of protection. Changes in law and practice have taken place since VM (Kenya) was promulgated in 2008 and sufficiency of protection is now available. New legislation has been introduced , most significantly, Article 53 of the 2010 Kenyan Constitution which sets out the right of every child to be protected from harmful cultural practices and the Prohibition of Female Genital Mutilation Act which came into force in 2011 and made FGM illegal (see Legislation).

2.5.4 The Kenyan government has demonstrated a strong political will to eliminate the practice, including a dedicated body to oversee efforts to tackle the problem. The government has formulated a range of evolving strategies and policies in partnership with local, national and international organisations and has targeted communities where FGM prevalence remains high. In 2019, for example, the government adopted a revised National Policy for the Eradication of FGM and President Kenyatta committed to end the practice by 2022, although it looks unlikely that this target will be met (see Policies and strategies).

2.5.5 Measures have been introduced to increase the level of reporting of FGM-related crimes and also to increase convictions. These measures include: a gender-based violence (GBV) telephone helpline, training of law enforcement officers and social workers to handle FGM cases, a specialised anti-FGM prosecution unit and dedicated police units to address GBV,

including FGM (see State implementation and enforcement and Police capability and response).

2.5.6 The number of convictions for FGM-related offences and also the conviction rate has increased over the period 2016 to 2020. Ten convictions were recorded in 2016, rising to 15 in 2018 and 41 for the combined time period 2019/2020. Conviction rates over the same period are estimated at 13% (2016), 15% (2018) and 48% (2019/2020). Sentences for FGM-related crimes in 2019 and 2020 varied for periods between 12 months and 7 years. (see Arrests, prosecutions and convictions).

2.5.7 Women or girls fearing FGM can also seek assistance but not protection from a large number of Community Based Organisations (CBOs), Non-governmental Organisations (NGOs), and Civil Society Organisations (CSOs) that implement FGM interventions. There are an estimated 1,000 centres and safe houses operating in Kenya which provide access to safe temporary shelter, education, health and psychosocial support (see Civil society support and assistance).

2.5.8 The effectiveness of anti-FGM measures and legislation has been mixed, with prevalence falling in some communities but not in others. Problems include cultural resistance to change, the practical challenges of enforcing the law (especially in rural areas) and the risk that criminalisation of the practice may drive it underground or lead to lower levels of reporting. Reduced police and community oversight during COVID-19 has also impacted upon efforts to tackle FGM due to the diversion of resources and closure of some safe houses (see State implementation and enforcement and Impact of COVID-19).

2.5.9 The state has generally taken reasonable steps to establish an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm and there are no barriers to accessing such protection (see Country Policy and Information Note, Actors or protection).

2.5.10 In general, the state is both willing and able to provide protection, and this is likely to be accessible to a girl or woman, although each case will need to be considered on its particular circumstances. A person's reluctance to seek protection does not mean that protection is not available. The onus is on the person to demonstrate that the state is not willing and able to provide her with protection.

2.5.11 For further guidance on assessing the availability of state protection, see the instruction on Assessing Credibility and Refugee Status.

Back to Contents

2.6 Internal relocation

2.6.1 The law provides for freedom of movement within Kenya. Decision makers must give careful consideration to the reasonableness of internal relocation on a case-by-case basis taking into account individual circumstances.

2.6.2 VM (Kenya) held that:

'It may be possible for a woman not wishing to undergo FGM herself, or not wishing her child to do so, to relocate to another community which does not follow the practice of FGM. A thorough examination of all the relevant factors must be undertaken in each case given the position of women within Kenyan society and the usual need for kinship links in the place of relocation in order to sustain such movement successfully. For example, under the customary law of most ethnic groups, a woman cannot inherit land and must live on the land as a guest of males who were relatives by blood or marriage.

'Those who practise FGM are not, in general, reasonably likely (particularly in urban areas), to seek to inflict FGM upon women from ethnic groups or sub-groups which do not practise FGM…

'Internal relocation may be available in Kenya to a woman who is at real risk of forced FGM in her home area if the evidence shows, (i) she is not reasonably likely to encounter anyone in the place of relocation who would be in a position of power and influence over her and who would use that power and influence to require her to undergo FGM, or would cause her presence in the place of relocation to become known to such a person or persons…and (ii) she can reasonably be expected to live in that place, having regard to the general circumstances prevailing in it and the personal circumstances of the appellant (paragraph 3390 of HC 395). In the case of a woman from a rural area in Kenya, internal relocation to some other region or urban centre will not be available unless her circumstances are such that she will be able to survive economically (see Januzi v Secretary of State for the Home Office and Others [2006] UKHL 5).

'In considering internal relocation it is important to bear in mind the religious and/or cultural context, particularly as to whether there is any family or sub-clan support available to the woman in the proposed area of relocation. In general it will be easier for a member of a particular tribe to relocate to an area where there are others from her tribe to provide shared culture and support, rather than relocating to an area populated by a different tribe. Much will depend upon the individual circumstances of the woman and the availability or otherwise of a support structure within the proposed area of return. See also 4 above. In considering the issue of relocation it is important that the situation of the family and extended family be examined, particularly as to cultural context, education, economic lifestyle and work experience.' (paragraphs 242 (4), (5), (10) and (11))

2.6.3 The practice of FGM is highly regionalised within Kenya with approximately 72% of all circumcised women living in one of 3 provinces: Northeastern, Rift Valley and Nyanza. With the exception of the Western region, the lowest FGM prevalence can be found in Nairobi and the Coast region (the location of Kenya's second largest city, Mombasa). Nationally, a large majority of women aged 15-49 are not circumcised (79% in 2014) (see Prevalence of FGM).

2.6.4 Since VM (Kenya) was promulgated in 2008, legal changes have improved the rights of women, most notably the 2010 Kenyan Constitution. The Constitution provides equal rights for men and women including equal rights to inheritance and access to land and property, although women still experience discrimination. The Constitution also provides women with the

right to be recognised as head of household and in a survey carried out in 2014, 27% of urban residences and 36% of rural residences had a female head of household. Women made up approximately half of the total labour force in 2020 and are particularly active in the informal sector (see Housing, Employment and Kenya Background Note).

2.6.5 In general, a woman who fears FGM is likely to be able to relocate from her home area in order to avoid any person who might use their power and influence to require her to undergo FGM. However, a single woman may face greater difficulties in relocating than a couple or a family and the decision maker should consider all factors which may affect the woman's ability to support herself.

2.6.6 In summary, VM (Kenya) found that an uncircumcised girl/woman in Kenya who is at risk of forced FGM in her home area may be able to relocate, depending on her individual circumstances. Since the country guidance determination in VM (Kenya) the country situation has improved. There has been an overall decline in the risk of FGM and also an improvement in the position of women in Kenyan society generally.

2.6.7 Each case must be considered on its facts, with the onus on the decision maker to demonstrate that internal relocation would be reasonable / not unduly harsh.

2.6.8 For information on an assessment of possibility of internal relocation generally, refer to: CPIN Internal relocation.

2.6.9 For further guidance on internal relocation see the instruction on Assessing Credibility and Refugee Status.

Back to Contents

2.7 Certification

2.7.1 Where a claim is refused, the Decision Maker should consider whether it can be certified as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002. Decisions on certification should be made on a case-by-case basis dependent upon an assessment of the availability of protection and reasonableness of relocation.

2.7.2 Claims are likely to be certified as clearly unfounded where protection and/or internal relocation are clearly available, for example:

- Single women who have lived and worked and supported themselves in an urban area.
- Women with husbands who claim on behalf of their daughter, where the husband is able to support the family unit.
- Women with extended family members who agree with her decision not to undergo FGM and who are willing and able to support her relocation.

2.7.3 In all other situations, certification is unlikely.

2.7.4 Kenya is listed as a designated state under section 94 of the Nationality, Immigration and Asylum Act 2002 in respect of men only.

2.7.5 For further guidance on certification, see Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 (clearly unfounded claims).

Back to Contents

Country information

Section 3 updated: 10 June 2021

3. FGM context

3.1 Definition and categorisation by type of FGM

3.1.1 The World Health Organisation (WHO) defines FGM as: 'All procedures that involve partial or total removal of the external female genitalia, or other injury to the female genital organs for non-medical reasons'[1]

3.1.2 In an online article posted in February 2020, WHO classified FGM into 4 major types:

'Type 1: this is the partial or total removal of the clitoral glans (the external and visible part of the clitoris, which is a sensitive part of the female genitals), and/or the prepuce/ clitoral hood (the fold of skin surrounding the clitoral glans).

'Type 2: this is the partial or total removal of the clitoral glans and the labia minora (the inner folds of the vulva), with or without removal of the labia majora (the outer folds of skin of the vulva).

'Type 3: Also known as infibulation, this is the narrowing of the vaginal opening through the creation of a covering seal. The seal is formed by cutting and repositioning the labia minora, or labia majora, sometimes through stitching, with or without removal of the clitoral prepuce/clitoral hood and glans (Type I FGM).

'Type 4: This includes all other harmful procedures to the female genitalia for non-medical purposes, e.g. pricking, piercing, incising, scraping and cauterizing the genital area.'[2]

3.1.3 However, Shell-Duncan and others, in a 2017 Population Council report, commented on whether the WHO classification is useful when looking at survey data: 'Although this typology offers a more precise anatomical description of varied practices, it may be more useful in clinical observations than in surveys that rely on self-reported FGM/C status. The categories in this typology may not clearly correspond with local terminology.'[3]

3.1.4 The women interviewed as part of the 2014 Kenya Demographic and Health Survey (DHS), for example, are asked questions about FGM which are phrased very differently from the WHO terminology. Questions asked included:

- Have you yourself ever been circumcised?
- Was any flesh removed from the genital area?
- Was the genital area just nicked without removing any flesh?

[1] World Health Organisation, 'Female Genital Mutilation: Key Facts', 3 February 2020
[2] World Health Organisation, 'Female genital mutilation: key facts', 3 February 2020
[3] Shell-Duncan, B. and others, 'FGM in Kenya: Is change taking place?...' (page 6), February 2017

- Was your genital area sewn closed?[4]

3.1.5 Some women undergo secondary FGM, in other words, they may be circumcised more than once. Guidance issued by the Royal College of Obstetricians & Gynaecologists in 2015 stated: 'Re-infibulation refers to the resuturing (usually after childbirth) of the incised scar tissue in a woman with FGM type 2 or 3.'[5]

Back to Contents

3.2 Health problems associated with FGM

3.2.1 In an article published in January 2020, Kimani and others at the University of Nairobi, writing in the journal BMC International Health and Human Rights, described the health problems associated with FGM:

'The complications span from immediate, long-term physical, obstetric, gynecological [sic], sexual and psychosocial impacts. The immediate complications including; severe pain, bleeding, and urine retention are related to the extent of the cutting, poor anatomical knowledge of the performer, use of crude and non-sterilized instruments. The FGM/C-related gynaecologic complications entails menstrual retention, cysts, and infections (e.g genital, reproductive and urinary tract). Women with FGM/C also suffer obstetric complications such as difficult in birthing process, obstructed and prolonged labour, tears and episiotomies. Of note are sexual consequences related to the severed organs notably painful sexual intercourse, lack of orgasm, satisfaction and lubrication. Additionally, women living with FGM/C present with anxiety, depression, post-traumatic stress disorder, and low self-esteem - the so called psychological impacts.'[6]

Back to Contents

3.3 Type of FGM practised in Kenya

3.3.1 The table below, using data from the Kenya National Bureau of Statistics' (KNBS) Demographic and Health Survey 2014 (Kenya DHS 2014), documents the type of FGM among circumcised women aged 15-49:

Type of FGM	**% of circumcised women**
Cut, no flesh removed	1.6
Cut, flesh removed	87.2
Sewn closed	9.3
Don't know/missing	1.9
Total	100

[7]

3.3.2 Type of circumcision varied according to background characteristics. While only 9% of all circumcised women were sewn closed, a CPIT review of the

[4] KNBS, 'Kenya DHS 2014' (Appendix E), December 2015
[5] Royal College of Obstetricians & Gynaecologists, 'FGM and its management' (page 11), July 2015
[6] Kimani, S. and others, 'Exploring barriers to seeking health care...', 28 January 2020
[7] KNBS, 'Kenya DHS 2014' (Table 18.2), December 2015

DHS 2014 data indicated that the figure was higher among circumcised Muslim women (30%), circumcised women of Somali ethnicity (32%) and circumcised women from the North Eastern region (31%)[8].

Back to Contents

3.4 Age at which FGM is performed

3.4.1 The table below, compiled using data from the Kenya DHS 2014, shows the age at which circumcised women (age 15-49) had the procedure carried out:

Age group (years)	%
0-4	2.3
5-9	26.6
10-14	42.6
15+	26.9
Missing/don't know	1.7
Total	100.1

[9]

3.4.2 In a Population Council report from February 2017, Shell-Duncan and others compared the Kenya DHS 2014 data with FGM data from other countries:

'The vast majority of cutting takes place [in Kenya] when girls are age 5 and over. This is in sharp contrast to many other countries, including Nigeria, Mali, Eritrea, Ghana, Mauritania, Senegal, Ethiopia, Niger and Burkina Faso, where most girls are cut in infancy or very early childhood (UNICEF, 2013). Additionally, in most countries it is rare for cutting to take place after the age of 15. In this regard, the situation in Kenya is a unique exception; a substantial fraction of cutting (27%) takes place at age 15 or over.'[10]

3.4.3 The authors also commented: 'In comparison to their mothers, girls with FGM/C are being cut at earlier ages.'[11]

3.4.4 The Kenya DHS 2014 showed that among the 45-49 age cohort, 19.2% of circumcised women were cut between the ages of 0-9, compared with 48.8% of respondents in the 15-19 age cohort.[12]

3.4.5 The survey results also indicated that age at cutting is not uniform among ethnic groups. There were four ethnic groups where the majority of women who underwent FGM were cut below the age of 10: Kamba (53% of circumcised women were cut below age 10), Mijikenda/Swahili (63%), Somali (78%) and Taita/Taveta (83%). Muslim women were also more likely to be circumcised at a younger age than women from other religions, with 72% of circumcised Muslim women cut below the age of 10.[13]

[8] KNBS, 'Kenya DHS 2014' (Table 18.2), December 2015
[9] KNBS, 'Kenya DHS 2014' (Table 18.3), December 2015
[10] Shell-Duncan, B. and others, 'FGM in Kenya: Is change taking place...' (page 21), February 2017
[11] Shell-Duncan, B. and others, 'FGM in Kenya: Is change taking place...' (page 4), February 2017
[12] KNBS, 'Kenya DHS 2014' (Table 18.3), December 2015
[13] KNBS, 'Kenya DHS 2014' (Table 18.3), December 2015

Back to Contents

3.5 Who performs the FGM procedure?

3.5.1 The Kenya DHS 2014 data showed that 83% of circumcised women aged 15-49 were cut by traditional agents (traditional circumcisers or traditional birth attendants) and 15% were cut by a medical professional (doctor, nurse, midwife or other health professional)[14].

3.5.2 In a Population Council report by Shell-Duncan and others, dated October 2018, Kenya ranked in the top 5 countries where medicalised FGM is performed: 'Among women with FGM/C, rates of medicalisation among women aged 15-49 are highest in five countries: Sudan (67%), Egypt (42%), Guinea (15%), Kenya (15%), and Nigeria (13%). Elsewhere, medicalised cutting is rare and restricted to geographically defined pockets.'[15]

3.5.3 A CPIT review of the Kenya DHS data from the two most recent surveys showed that the medicalization of FGM has fallen among women aged 15-49 from 20% in 2008/9 to 15% in 2014. However, medicalization was higher among the younger age cohort, with 20% of circumcised girls age 0-14 undergoing medicalized FGM according to the 2014 survey.[16] [17]

3.5.4 In an article published in March 2020, Kimani and others reported:

'Ethnic groups with substantially high medicalization rates in Kenya include the Abagusii [also known as Kisii]; Somali; and the Maasai.'[18]

Back to Contents

4. Prevalence of FGM

4.1 The Kenya Demographic Health Survey

4.1.1 The Kenya Demographic Health Survey (DHS) is the most comprehensive source of data on the prevalence of FGM in Kenya and is referred to by a range of organisations including the Population Council, 28 Too Many and UNICEF (see sources consulted in the Bibliography).

4.1.2 The most recent DHS survey took place in 2014 (full report published in December 2015) and the next survey is due to take place in 2021. The DHS Program is funded by the US Agency for International Development (USAID).[19]

4.1.3 The information collected by the DHS is based upon a woman's self-reported FGM status and may, therefore, be affected by a respondent's willingness to accurately self-report, particularly in the context of criminalisation of the procedure.[20]

4.1.4 Other sources of data on the prevalence of FGM have been published but these are based on smaller sample sizes and have a more localised focus

[14] KNBS, 'Kenya DHS 2014' (Table 18.7), December 2015
[15] Shell-Duncan, B and others, 'Trends in medicalisation of FGM...' (page 4), October 2018
[16] KNBS, 'Kenya DHS 2008/9', (Table 16.18), June 2010
[17] KNBS, 'Kenya DHS 2014' (Table 18.7), December 2015
[18] Kimani, S. and others; Plos One, 'FGM: emerging factors sustaining medi...', 2 March 2020
[19] The DHS Program, 'Who we are', no date.
[20] Shell-Duncan, B and others, 'FGM in Kenya: Is change taking place?...' (page 27), February 2017

than the DHS. For example, the most recent UNICEF MICS (Multiple Indicator Cluster Survey) for 2013/14, only covered 3 counties (Bungoma, Kakamega and Turkana). Similarly, more recent research, commissioned by the Orchid Project (a UK-based NGO which campaigns to end FGM), published in February/March 2018, covered the areas of Kuria, Narok and the Loita Hills[21].

4.1.5 The table below, compiled using data from the 3 most recent Kenya Demographic and Health Surveys, shows the percentage of women who were circumcised, by background characteristics:

Background characteristic	**2003**	**2008/9**	**2014**
Age			
15-19	20.3	14.6	11.4
20-24	24.8	21.1	14.7
25-29	33.0	25.3	18.0
30-34	38.1	30.0	22.9
35-39	39.7	35.1	27.8
40-44	47.5	39.8	32.1
45-49	47.7	48.8	40.9
Religion			
Roman Catholic	33.2	29.1	21.5
Protestant/other Christian	29.5	23.5	17.9
Muslim	49.6	51.4	51.1
No Religion	39.6	38.3	32.9
Other	n/a	n/a	(19.7)
Ethnic group			
Embu	43.6	51.4	30.7
Kalenjin	48.1	40.4	27.9
Kamba	26.5	22.9	10.7
Kikuyu	34.0	21.4	14.6
Kisii	95.9	96.1	84.4
Luhya	0.7	0.2	0.4

[21] Orchid Project, 'FGM in Kenya: a baseline review of attitudes...', Feb/Mar 2018

Luo	0.7	0.1	0.2
Maasai	93.4	73.2	77.9
Meru	42.4	39.7	30.7
Mijikenda/Swahili	5.8	4.4	2.4
Somali	97.0	97.6	93.6
Taita/Taveta	62.1	32.2	22.3
Turkana	12.2	n/a	1.7
Samburu	n/a	n/a	86.0
Other*	17.6	38.9	41.4
Residence			
Urban	21.3	16.5	13.8
Rural	35.8	30.6	25.9
Region			
Coast	20.2	10.0	10.2
North Eastern	98.8	97.5	97.5
Eastern	36.4	35.8	26.4
Central	36.3	26.5	16.5
Rift Valley	42.8	32.1	26.9
Western	4.1	0.8	0.8
Nyanza	35.1	33.8	32.4
Nairobi	18.6	13.8	8.0
Wealth quintile**			
Lowest	40.0	40.2	39.8
Second	40.4	31.0	26.0
Middle	36.0	29.4	17.8
Higher (Fourth)	31.8	25.9	17.2
Highest	19.1	15.4	12.0
Education**			
No education	58.2	53.7	58.2
Primary	32.0	27.7	23.3

Secondary	23.2	21.1	13.4
Higher	12.8	11.9	8.6
Total	32.2	27.1	21.0
Total number of women	8,195	8,444	14,625
Number of circumcised women	2,639***	2,284	3,066

[22]

* In 2014, the proportion of surveyed women categorised as 'Other' ethnic group was 3.8%.

**Figures taken from DHS Stat Compiler tool as published reports are incomplete.

***Approximated using 8195 x 0.322 as actual figure is not included in original table.

Back to Contents

4.2 Religion

4.2.1 Based upon a review of the above data by CPIT, FGM was practised across all religions (and also among people with no religion) but was most prevalent among Muslims (51.1% in 2014) and lowest among Protestant/other Christians (17.9%).

Back to Contents

4.3 Ethnic group

4.3.1 A review of the above table by CPIT indicated large variations in prevalence of FGM by ethnic group. Prevalence in 2014 was greater than 75% among the Somali, Samburu, Kisii and Maasai (93.6%, 86.0%, 84.4% and 77.9%, respectively) and less than 2% among the Luhya, Luo and Turkana.

Back to Contents

4.4 Residence

4.4.1 A CPIT review of the data presented above indicated that the prevalence of FGM was consistently lower in urban areas than in rural areas.

Back to Contents

4.5 Region

4.5.1 A CPIT review of the above data indicated that the North Eastern region stood out with a FGM prevalence of 97.5%. The next highest prevalence was in Nyanza at 32.4% and Rift Valley at 26.9%. Prevalence was lowest in the Western region at 0.8% (figures for 2014).

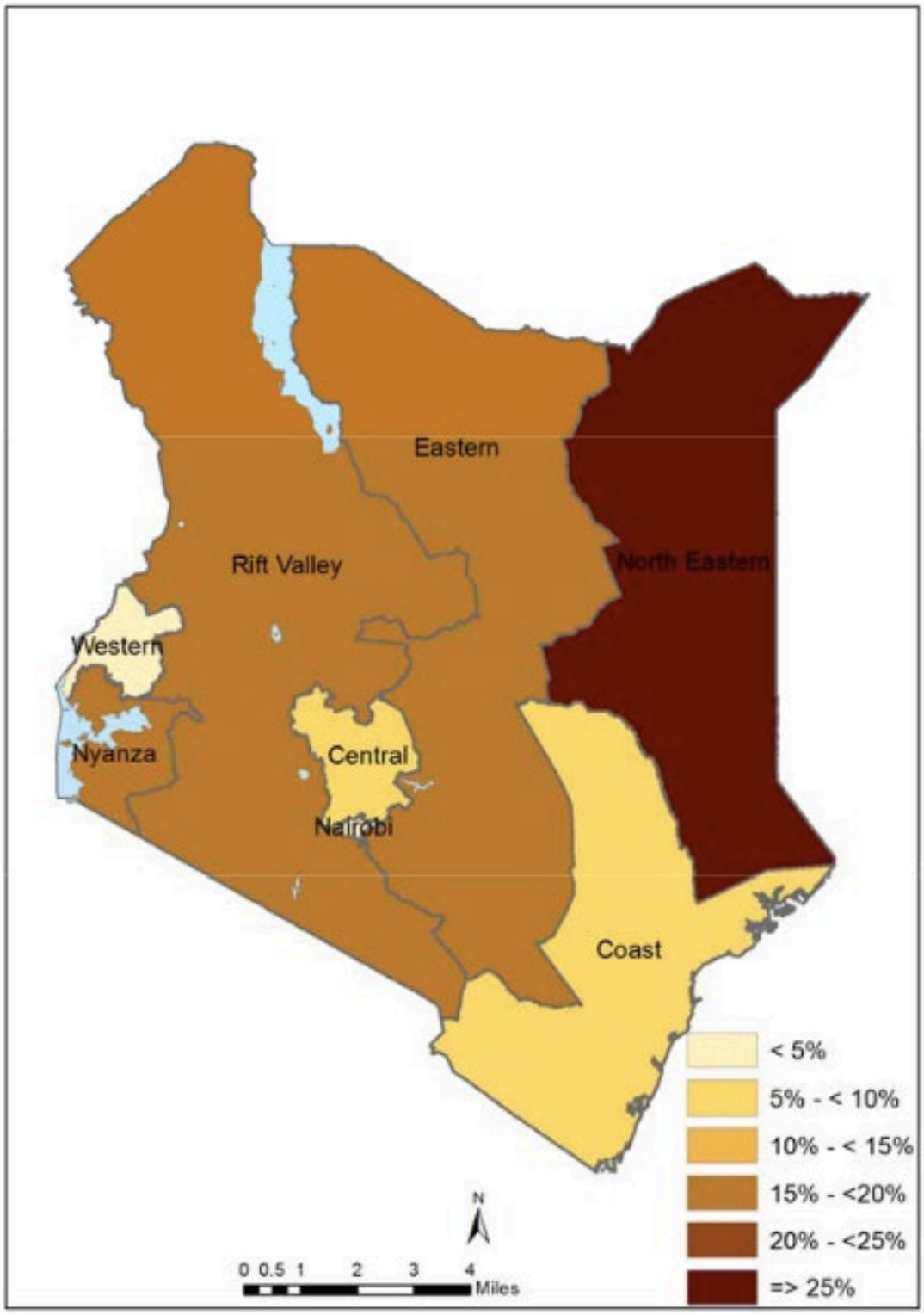
[22] The table is a compilation of data from 3 Kenya DHS reports: 2014 (Table 18.2), 2008/9 (Table 16.16), 2003 (Table 15.8)

4.5.2 In a 2017 report for the Population Council, Shell-Duncan and others stated: 'As population densities vary in different regions of the country, it is also of interest to know where most women 15-49 years of age living with FGM/C reside. The data [from the 2014 DHS] show that 72% of Kenyan women living with FGM/C reside in three provinces: Northeastern, Rift Valley and Nyanza.'[23]

4.5.3 There is a degree of overlap between the different characteristics recorded by the DHS which arises, for example, due to some ethnic groups tending to live in a particular area or practise a particular religion. Kimani and others, in a study published in January 2020, noted with regards the Somali ethnic group that: 'Predominantly they are Muslims and resident of the former North Eastern Province of Kenya.'[24] Samburu and Maasai live predominantly within the Rift Valley region whereas Kisii live in Nyanza.[25] [26] [27]

[23] Shell-Duncan, B and others, 'FGM in Kenya: Is change...' (page 4), February 2017
[24] Kimani, S. and others, 'Exploring barriers to seeking health care...', 28 January 2020
[25] IRBC, 'Response to information request: KEN43248.E', 12 January 2005
[26] Minority Rights Group International, 'Maasai', May 2018
[27] African Studies Center, University of Pennsylvania, 'Kenya ethnic groups', no date

4.5.5 The map below charts the prevalence of FGM among women age 15-49 by province:



[28]

Back to Contents

[28] Shell-Duncan, B and others, 'FGM in Kenya: Is change...' (page 13, figure 2), February 2017

4.6 Wealth quintile

4.6.1 Based upon a CPIT review of the above data, the prevalence of FGM was consistently higher among the poorest women (fifth quintile). The gap between the lowest and highest wealth quintiles has also widened over the 3 surveys. This has occurred because there has been little change in prevalence among women in the lowest wealth quintile (stable at approximately 40%) while there has been a fall in prevalence among women in the highest quintile. The third and fourth quintiles of women experienced the highest rates of decline in FGM.

4.6.2 In 2014, the prevalence of FGM among the poorest group was more than 3 times the prevalence recorded among women in the wealthiest group (40% and 12% respectively). The wealthiest 3 quintiles all had a prevalence which was lower than the national average of 21%.

Back to Contents

4.7 Education

4.7.1 A CPIT review of the above data found that the prevalence of FGM was consistently higher among women with no education than among women who have received some level of education. Over the period covered by the 3 surveys, the prevalence of FGM has fallen among women who have received either a primary, secondary or higher level of education but has remained unchanged among women with no education.

4.7.2 In 2014, the prevalence of FGM among women with no education was almost 7 times greater than the prevalence among women with the highest level of education (58.2% and 8.6% respectively).

Back to Contents

4.8 Mother-daughter

4.8.1 A CPIT review of the DHS data from 2014 indicated that the daughters of women who have had FGM are more likely to also undergo the procedure. The prevalence of FGM among all girls aged 0-14 was 2.8%. Among the daughters of circumcised women, prevalence was 9.6%, compared to 0.1% among the daughters of uncircumcised women.[29]

Back to Contents

4.9 Trends in prevalence over time

4.9.1 UNICEF's Kenya FGM Country Profile, which draws upon DHS 2014 data, described Kenya's progress towards abandoning FGM as 'strong'.[30]

4.9.2 In a Population Council report, dated December 2018, Matanda and others stated: 'Nationally, there has been a steady and marked decline in the prevalence of FGM/C. There is, however, great variance in the prevalence of FGM/C across the country, with prevalence remaining high among certain ethnic groups such as Somali, Samburu, Kisii, and the Maasai.'[31]

[29] KNBS, 'Kenya DHS 2014' (Table 18.5), December 2015
[30] UNICEF, 'A profile of FGM in Kenya' (page 2), March 2020
[31] Matanda, D. and others, 'Tracing change in FGM: shifting norms...' (page 1), December 2018

4.9.3 In a later Population Council report dated July 2020, which also referred to the DHS data, Matanda and others concluded that: 'There is a general decline in FGM/C prevalence, but the pattern of change is geographic-and ethnic-group-specific — some groups abandoning while others are not.'[32]

Back to Contents

5. Laws and policy

5.1 Legislation

5.1.1 In March 2020, UNICEF summarised Kenya's approach towards eliminating FGM:

'The Ministry of Public Service and Gender leads the initiative, with contributions from line ministries; faith-based, community-based, civil society and non-governmental organizations; and UN agencies. Article 53 of the 2010 Kenya Constitution, which articulates the right of every child to be protected from harmful cultural practices, underpins the drive for elimination. Kenya enacted the Prohibition of Female Genital Mutilation Act 2011, and in 2019 adopted a revised National Policy for the Eradication of FGM that has shaped the national programme.'[33]

5.1.2 Medical journal, the BMJ, reported a commitment to end FGM which was made by the Kenyan president at a conference in June 2019: '[President] Uhuru Kenyatta, vowed to end the practice in his country by 2022, eight years ahead of the sustainable development goal [to eliminate the practice by 2030].'[34]

5.1.3 In its March 2020 report, UNICEF commented: 'Kenya's progress towards abandoning FGM is strong compared to other countries in Eastern and Southern Africa. Nonetheless, eliminating FGM by 2030 across the country requires additional efforts.'[35]

5.1.4 28 Too Many, in a report from May 2018, described the general legal framework in Kenya as follows:

'Kenya has a mixed legal system comprising English common law, Islamic law and customary law. The country has a quasi-federal structure with two distinct but interdependent tiers of government at national and county levels. The Constitution of Kenya (2010) assigns health policy and all criminal law to the national government. National law supersedes any laws made at the county level and also applies when there is no county legislation on a matter.'[36]

5.1.5 A Population Council report by Matanda and others, published in July 2020, stated: 'The existence of a legislative and policy framework that deals with FGM/C demonstrates a favourable political will and commitment to address FGM/C.'[37]

---

[32] Matanda, D. and others, 'Lessons from a five-year research prog...' (page 2), July 2020
[33] UNICEF, 'A profile of female genital mutilation in Kenya' (page 25), March 2020
[34] The BMJ, 'Kenya's president sets target to end FGM by 2022', 5 June 2019
[35] UNICEF, 'A profile of female genital mutilation in Kenya' (page 2), March 2020
[36] 28 Too Many, 'Kenya: the law and FGM' (page 2), May 2018
[37] Matanda, D and others, 'Lessons from a five-year research program...' (page 2), July 2020

5.1.6 The report went on to summarise the legal provisions and actions of the government as follows:

'Kenya has ratified the international and regional legal instruments, enacted the Prohibition of FGM Act of 2011 and other laws that contain provisions that address FGM/C including: the Children's Act, 2001 and Protection Against Domestic Violence Act, 2015 (ROK 2011). The Prohibition of FGM Act is a comprehensive piece of legislation that defines and criminalises FGM/C and other associated offences and prescribes the sanctions for those offences. The Act establishes the Anti-FGM Board whose mandate is to offer policy leadership and programmatic coordination. The Board has developed policies, strategies, plans of actions, and tools that are critical in accelerating the abandonment of FGM/C.'[38]

5.1.7 More information on the FGM-related legislation identified by the Population Council and 28 Too Many reports are set out below.

Back to Contents

5.2 Constitution of Kenya (2010)

5.2.1 In a 2018 review of Kenyan FGM law, 28 Too Many reported:

'Although the Constitution does not explicitly refer to FGM, Article 29(c) provides the right not to be "subjected to any form of violence" or (f) "treated or punished in a cruel, inhuman or degrading manner". Article 44(3) states that "a person shall not compel another person to perform, observe or undergo any cultural practice or rite". In addition, Article 53(d) protects every child from "abuse, neglect, harmful cultural practices, all forms of violence, inhuman treatment and punishment..."'[39]

Back to Contents

5.3 Prohibition of FGM Act of 2011

5.3.1 Kimani and Obianwu, in a June 2020 report for the Population Council, stated: 'The Prohibition of FGM Act has provisions for protection of women and girls from FGM/C including safe housing; provision of support services to victims of FGM/C to include medical services and psychosocial support; as well as public education and sensitisation on the dangers and adverse effects of FGM/C, providing the required information to seek medical services and support.'[40]

5.3.2 In May 2018, 28 Too Many reported: 'The Prohibition of Female Genital Mutilation Act, 2011 (FGM Act 2011) which came into effect on 4 October 2011, is the principal legislation governing FGM in Kenya. It is a federal act and criminalises all forms of FGM, regardless of the age or status of a girl or woman.'[41]

5.3.3 And:

[38] Matanda, D and others, 'Lessons from a five-year research program...' (page 3), July 2020
[39] 28 Too Many, 'Kenya: the law and FGM' (page 2), May 2018
[40] Kimani, S. and other, 'FGM: a review of laws...' (page 8), June 2020
[41] 28 Too Many, 'Kenya: the law and FGM' (page 2), May 2018

'The FGM Act 2011 is a comprehensive piece of legislation that established the Anti-Female Genital Mutilation Board and sets out the offences and punishments for FGM in Kenya.

'Article 2 of the FGM Act 2011 clearly defines FGM as "all procedures involving partial or total removal of the female genitalia or other injury to the female genital organs, or any harmful procedure to the female genitalia, for non-medical reasons", and includes (a) clitoridectomy, (b) excision and (c) infibulation (with accompanying definitions of each). The only exceptions are a "sexual reassignment procedure or a medical procedure that has a genuine therapeutic purpose"; the law does not, however, define the meaning of "therapeutic" in this context.

'Part IV (Articles 19–25) of the FGM Act 2011 outlines the criminal offences related to the following aspects of FGM:

- Article 19–the performance of FGM, including by medical practitioners;
- Article 20–procuring, aiding and abetting the practice of FGM;
- Article 21 –procuring a person to perform FGM in another country;
- Article 22–allowing the use of premises for FGM;
- Article 23–the possession of tools and equipment for the purposes of FGM;
- Article 24–failure to report awareness of FGM to a law enforcement officer, whether the procedure is in progress, has already occurred or is planned; and
- Article 25–the use of derogatory or abusive language against a woman for having not undergone FGM (or against a man for marrying or supporting that woman).'[42]

Back to Contents

5.4 Children's Act, 2001

5.4.1 In the same 2018 review of Kenyan FGM law, 28 Too Many noted, that in the Children Act 2001 (revised 2016), Article 14 stated:

'No person shall subject a child to female circumcision, early marriage or other cultural rites, customs or traditional practices that are likely to negatively affect the child's life, health, social welfare, dignity or physical or psychological development...Article 119(1)(h) of the Children Act also provides for a Children's Court to issue a protection order if the child "being a female, is subjected or is likely to be subjected to female circumcision or early marriage or to customs and practices prejudicial to the child's life, education and health."'[43]

Back to Contents

[42] 28 Too Many, 'Kenya: the law and FGM' (page 3), May 2018
[43] 28 Too Many, 'Kenya: the law and FGM' (page 3), May 2018

5.5 Protection Against Domestic Violence Act, 2015

28 Too Many also reported: '[The law] defines domestic violence under Article 3(a)(ii) to include "female genital mutilation" and under Article 19(1)(g) it provides the facility to set up protection orders covering potential victims against engagement, or threats to engage, "in cultural or customary rites or practices that abuse the protected person"'[44]

5.5.1 However, opposition to FGM law is reported in a July 2020 Population Council report by Matanda and others:

'Kenya's FGM/C law has been the subject of protests by women in practising communities…. Currently, a constitutional petition has been brought before the courts, challenging the constitutionality of the Act. The basis of this constitutional petition is that the total prohibition of FGM/C, even for women who might voluntarily consent to the practice, interferes with women's enjoyment of the right to culture under Article 44 of the Constitution and the freedom of conscience, religion, belief, or opinion under Article 32 of the Constitution.'[45]

5.5.2 The petition challenging FGM law was dismissed as 'devoid of merit' on 17 March 2021.[46]

Back to Contents

5.6 Policies and strategies

5.6.1 In a 2020 report, the United Nations Population Fund (UNFPA) stated: '[Kenya] has a national programme to end female genital mutilation that is underpinned by national laws and policy, and includes an oversight and coordination board, community engagement, girls' empowerment programmes, partnerships with religious leaders, outreach to both traditional practitioners and medical personnel, and community services to report and respond to cases.'[47]

5.6.2 Kimani and Obianwu, in a June 2020 report for the Population Council summarised the various strategies in place:

'In Kenya, FGM/C is addressed in the recent National Policy for the Eradication of Female Genital Mutilation of 2019 (Ministry of Gender Affairs 2019) as well as health sector–specific National Adolescent Sexual and Reproductive Health Policy of 2015 (Ministry of Health 2015) and the National School Health Policy of 2018 (Ministry of Education 2018). These policies actualide [sic] the ratified international instruments, the constitution, and the country's legislation that address FGM/C as a harmful practise and a topical issue as defined by the World Health Organization. These policies have considered the devolved governance structure and sector-specific changes in setting out strategies for addressing FGM/C…

'With regard to the implementation of FGM/C policies in Kenya, there are structures identified and their roles clearly highlighted to include: the

[44] 28 Too Many, 'Kenya: the law and FGM' (page 4), May 2018
[45] Matanda, D. and Others, 'Lessons from a five-year research progr...' (page 21), July 2020
[46] Kenya Law, 'Tatu Kamau v Attorney General & 2 others...', 17 March 2021
[47] UNFPA, 'State of world population' (page 120), 2020

national, subnational, hospital level, subcounty, and community levels depending on the policy. The policies have provisions on mobilising resources for FGM/C prevention and responses to actualise the policies—a responsibility of the lead ministry and partners…

'Finally, in Kenya the reviewed policies had elaborate M&E [Monitoring and Evaluation] strategies for their implementation that involves timely reporting, updates, and consistent monitoring to inform programming on any emerging FGM/C trends.'[48]

5.6.3 Matanda and others in a July 2020 report for the Population Council, stated: 'Among the documents developed by the [Anti-FGM] Board is the National Policy for the Eradication of FGM (2019) which outlines focus areas for engagement in accelerating FGM/C abandonment (ROK 2019). These areas include: legal interventions, health, FGM/C data, changes in FGM/C and emerging issues in FGM/C, evidence generation and utilisation, as well as continuous multi-stakeholder engagement.'[49]

5.6.4 The Organisation for Economic Co-operation and Development (OECD) 2019 Gender Index report for Kenya stated:

'Under the Prohibition of Female Genital Mutilation Act, the Anti-FGM Board has been established (Prohibition of Female Genital Mutilation Act, Sec. 3). Its mandate covers: design, supervision and co-ordination of public awareness programmes against the practice of FGM; advice to the Kenyan government; design and formulating a policy on the planning, financing and co-ordinating of all FGM-related activities; the Board also provides technical support to institutions, agencies and other bodies involved in the programmes on elimination of FGM and design programmes aimed at eradication of FGM itself (Prohibition of Female Genital Mutilation Act, Sec. 5).'[50]

5.6.5 The Star news site, in an article dated November 2019, described the revised Eradication of FGM Policy as below:

'The policy has five objective [sic], namely, to accelerate the eradication of FGM in Kenya, strengthen multi-sectoral interventions, coordination, networking, partnership and community participation.

'The other is to address emerging trends and practices frustrating enforcement of the law…

'To meet its objectives, Kobia [Professor Kobia, Cabinet Secretary, Ministry of Public Service and Gender] said the policy has nine programs of action which are promoting education and community dialogues, enforcement of FGM laws, engaging boys and men, girls and women and entrenching FGM content in schools.

'Others, she said, are strengthening capacity building, addressing cross border FGM, addressing FGM in emergencies and humanitarian situations, women empowerment and monitoring and evaluation.

[48] Kimani, S. and other, 'FGM: A review of laws...' (pages 9-11), June 2020
[49] Matanda, D. and others, 'Lessons from a five-year research prog...' (page 3), July 2020
[50] OECD, 'Social institutions & gender index 2019 Kenya' (page 10), December 2018

'The policy covers the roles of the national and county governments, Parliament, the justice system, non-state actors including civil society organizations, community-based organizations, faith-based organizations, the private sector, development partners, opinion leaders and affected communities.

'The new policy also seeks to strengthen the weak coordination framework at the national and county levels particularly in the areas of education, health, culture, legal, policy and economic segments.'[51]

Back to Contents

5.7 Penalties and punishments

5.7.1 28 Too Many, in a report published in May 2018, summarised the penalties and punishments for breaking FGM law as below:

'Article 29 of the FGM Act 2011 establishes criminal penalties for all offences set out in Articles 19–24 as follows:

- imprisonment for a minimum of three years; and/or
- a fine of at least 200,000 shillings (US$1,953) [£1318 GBP].[52]

'If the FGM procedure results in death, Article 19(2) states that the maximum sentence is life imprisonment.

'Under Article 25, the use of derogatory or shaming language is subject to punishment of a minimum of six months' imprisonment or a fine of at least 50,000 shillings (US$488) [£329 GBP], or both.'[53] [54]

5.7.2 The OECD's 2019 Gender Index report for Kenya stated:

'Under the Protection Against Domestic Violence Act, FGM is considered as a form of domestic violence and therefore, a protection order may be granted (Protection Against Domestic Violence Act, Sec. 3, 8)… Female child who is subjected or is likely to be subjected to FGM is considered as a child in need of care protection and may be placed in separate facilities from her offenders (Children Act, Sec. 119). Parents may be liable to cause or contribute that child becomes in need of care and protection. The offence is punishable to imprisonment up to 5 years or a fine (Children Act, Sec. 127).'[55]

Back to Contents

6. State implementation and enforcement

6.1 General information

6.1.1 For information on and assessment of the availability of protection generally, refer to: CPIN Actors of Protection.

Back to Contents

[51] The Star, 'FGM among Maasai stands at 77% - CS Kobia', 24 November 2019
[52] XE, 'The world's trusted currency authority', [1 KES = 0.00659103 GBP as of 8 March 2021]
[53] 28 Too Many, 'Kenya: the law and FGM' (page 5), May 2018
[54] XE, 'The world's trusted currency authority', [1 KES =0.00659103 GBP as of 8 March 2021]
[55] OECD, 'Social institutions & gender index 2019 Kenya' (page 10), December 2018

6.2 Implementation of policies

6.2.1 Matanda and others, in a Population Council report dated December 2018, stated: 'There have been numerous efforts, at the policy and programme levels, aimed at ending FGM/C in Kenya. The combined effects of such efforts have, however, yielded mixed outcomes, with the near elimination of FGM/C in certain ethnic groups (i.e., Meru, Kikuyu, and Kalenjin), and resistance in other ethnic groups (i.e., Maasai, Kisii, and Somalis), where the practice remains near universal.'[56]

6.2.2 Matanda and others, in a July 2020 report for the Population Council, stated: 'While the country has a robust legal framework for the prohibition of FGM/C through criminalisation, criminal sanctions have not worked as effectively as expected'.[57]

6.2.3 The authors of the same report identified key barriers which limit the implementation and enforcement of anti-FGM law:

'The formal law conflicts with culture and religion… and where a conflict occurs, individuals do not always choose to obey the formal law over cultural or religious beliefs.

'Fear of punitive consequences leads to lower reporting of FGM/C. In Kenya, the law drives the practice underground and individuals feel they cannot freely make reports about FGM/C occurring in their families and communities to government authorities, for fear of punishment.

'Strict enforcement of Kenya's FGM/C law, particularly in light of the mandatory minimum sentences, has negative social impacts. For example [the] imprisonment of parents… Law enforcement officials face the dilemma of either enforcing the law and risk negative social impacts, or failing to enforce the law allowing FGM/C to continue.

'The general challenges affecting the criminal justice system in Kenya make it difficult for the anti-FGM/C law to be properly implemented and enforced. In rural FGM/C hotspots, law enforcement officials travel long distances between police stations, scenes of crime and court stations. Witnesses face similar challenges and often lack the resources to attend court sessions. This affects the way investigations are conducted, how evidence is collected, and ultimately how prosecutions are carried out.

'Other crimes that tend to be prevalent tend to be prioritised at the expense of FGM/C….For example, crimes such as cattle rustling and illegal brewing of traditional alcohol routinely receive more attention from law enforcement officials as opposed to FGM/C.

'The police do not have a specific desk that deals with cases of FGM/C. While there exists a special desk within the Office of the Director of Public Prosecutions dedicated to the prosecution of FGM/C-related offences, this is not the case at police stations. Although FGM/C cases may be handled by the Gender Desk in some stations, there is a need for more coordination

[56] Matanda, D and others, 'Tracing Change in FGM: Shifting Norms...' (page 1), December 2018
[57] Matanda, D. and others, 'Lessons from a five-year research prog...' (page 6), July 2020

among the various levels and institutions tasked with the enforcement of the law.'[58]

6.2.4 UN Women Africa, in an article published in June 2020, described a Gender Based Violence helpline (1195 service) as follows: 'The Nairobi-based helpline is a free-to-call service, setup to give immediate assistance to the public in the event of all forms of sexual and gender-based violence.'[59]

6.2.5 In October 2020, the UN Office for the Coordination of Humanitarian Affairs (UN OCHA) reported: 'The national GBV Hotline 1195 received 810 cases in September (as of 29 September 2020) compared to 646 cases in August, an increase of 25 per cent. All cases received psychosocial first aid (PFA) and referral services.'[60]

6.2.6 At the time of writing, CPIT has been unable to find data on what proportion of the cases recorded by the hotline related specifically to FGM (see Bibliography for the sources consulted in this note).

6.2.7 In an article dated November 2020, the Ministry of Public Service and Gender reported the launch of guidelines for the establishment of Gender Based Violence Recovery Centers (GBVRCs) and commented: 'The GBVRCs are provided for in Vision 2030 as underscored in the social pillar that prioritises prevention and response to gender based violence and eradication of FGM.'[61]

6.2.8 In an article covering the launch of the GBVRC guidelines, dated 3 December 2020, online news site Standard Media reported: 'Recovery centres will operate round the clock and are expected to provide integrated and comprehensive services to survivors of GBV. They will offer medical and psycho-social services….County governments will bear the responsibility of setting up the centres. The Kenya Police Service will also have a training manual for officers attached to the centres to attend to GBV cases.'[62]

6.2.9 A Daily Nation article, dated 9 September 2020, reported:

'Gender Chief Administrative Secretary Rachel Shebesh is leading a campaign targeted at female circumcisers in efforts to end Female Genital Mutilation (FGM) in the country.

'The campaign by the Ministry of Public Service and Gender is aimed at reaching all the 22 counties identified as FGM hotspots.

'Speaking in Tana River County during an anti-FGM awareness tour, Ms Shebesh said to prevent the circumcisers from going back to the outlawed practice, the government will link them to alternative sources of income as well as engage them as anti-FGM champions.

[58] Matanda, D. and others, 'Lessons from a five-year research prog...' (page 7), July 2020
[59] UN Women Africa, 'Covid-19: UN Women supports...', 22 June 2020
[60] UN OCHA, 'Kenya sector status: protection (gender-based violence)', 20 October 2020
[61] Ministry of Public Service and Gender, 'Ministry launches...', 26 November 2020
[62] Standard Media, 'Hospitals to get gender violence recovery centres...', 3 December 2020

'This, she added, will be done through affirmative action funds domiciled at the Ministry of Gender, which include the National Government Affirmative Action Fund (NGAAF), Women Enterprise Fund among others.'[63]

6.2.10 An article published by Capital News on 7 December 2020 reported upon Government plans to develop a phone app which people can use to anonymously report cases of FGM:

'President Uhuru Kenyatta on Monday said the government is considering adopting the use of technology in the fight against Female Genital Mutilation (FGM) which is still practised in several communities in the country.

'Despite a campaign and initiatives to discourage the practice, many communities in rural Kenya including Kisii and Maasai are still practising it.

'On Monday, the president told a youth group at the Bomas of Kenya that the government was determined to end the traditional practice that has devastating long term effects on girls and women.

'The President said this will include an application where such cases can be reported anonymously, including by victims who are mainly young girls.'[64]

6.2.11 In its January 2021 reply to the UN Human Rights Committee, the Kenyan government stated:

'The following actions have been taken to implement the Sessional Paper No. 3 of 2019 on the National Policy on the Eradication of Female Genital Mutilation (FGM) Policy:

- Promotion of public education and community dialogues on FGM prevention and punishment.
- The involvement of elders in the fight against FGM has brought on board more men who have become champions for the protection of the rights of girls and their education.
- Enhanced cross borders collaboration and cooperation in the fight against regional
- Development of a training manual 'Stopping Medicalization of FGM' that targets medical personnel.'[65]

Back to Contents

6.3 Impact of COVID-19

6.3.1 A report published in June 2020 by the African Child Policy Forum (ACPF) and Plan International, highlighted the impact of COVID-19 on FGM prevention efforts: 'In FGM prone areas in Kenya, following the COVID-19 crisis, the lock-down has provided an opportunity for practitioners to carry out the cut on girls, because community and government accountability systems are operating at minimum levels.'[66]

[63] Daily Nation, 'Kenya: Shebesh targets circumcisers to end FGM', 9 September 2020
[64] Capital News, 'Anonymous app to help end FGM in Kenya', 7 December 2020
[65] UN, 'Replies of Kenya to the list of issues...' (page 13), 27 January 2021
[66] ACPF and Plan International, 'Under siege - impact of covid-19...' (page 22), June 2020

6.3.2 The Orchid Project, a UK-based NGO opposed to FGM, reported in September 2020 that COVID-19 had affected the availability of support services for girls and women at risk of FGM:

'In Kenya, a circular issued by the Ministry of Labour and Social Protection, in response to COVID-19, ordered the blanket closure of safe houses and refuges across Kenya without consultation of NGOs and CSOs providing such services. Whilst some rescue homes have remained open across Kenya, including in Nairobi, most centres are unable to admit new cases and cope with current increased demand for services whilst also struggling with limited funding.'[67]

6.3.3 And:

'Monitoring and reporting of FGC cases has also been significantly impacted by COVID-19…activists are reporting increased usage of hotlines, but limited or ineffective means of following up reports with verification or enforcement action...Courts in Kenya are either not in session or have a substantial backlog of cases, and in Kuria, law enforcement is being redirected to enforce curfews and COVID-19 responses. Reports from Rift Valley note that government child protection officers are becoming hostile to anyone reporting FGC, and that police officers are overwhelmed.'[68]

6.3.4 An article published by the medical journal, The BMJ, on 28 October 2020, reported that COVID-19 had hindered efforts to prevent FGM among the Kuria community in Southwestern Kenya: 'About 2800 girls from southwestern Kenya's Kuria community who recently underwent female genital mutilation (FGM) have been paraded through town centres in recent weeks, as local traditional leaders make the most of reduced police vigilance during the covid-19 pandemic.'[69]

6.3.5 The Pulitzer Centre, an online news outlet, reported in January 2021:

'Pandemic-related travel restrictions have prevented government officials, law enforcement, and humanitarian workers from traveling in regions with high FGC prevalence to implement child protection programs. The all-consuming task of ensuring mask-wearing, hand-washing and widespread testing has, instead, diverted government and law enforcement resources.'[70]

Back to Contents

6.4 Police capability and response

6.4.1 The US State Department (USSD) human rights report for 2020 noted: 'Media reported arrests of perpetrators and parents who agreed to FGM/C, but parents in regions with a high prevalence of FGM/C frequently bribed police to allow the practice to continue. There were also reports FGM/C increasingly occurred in secret to avoid prosecution.'[71]

[67] Orchid Project, 'Impacts of covid-19 on FGM' (page 10), September 2020
[68] Orchid Project, 'Impacts of covid-19 on FGM' (page 11), September 2020
[69] The BMJ, 'FGM: nearly 3000 girls are paraded in Kenya...', 28 October 2020
[70] Pulitzer Centre, 'Female Genital Cutting Is on the Rise During COVID in Kenya', 29 Jan 2021
[71] USSD, '2020 Country report on human rights practices: Kenya' (section 6), 30 March 2021

6.4.2 The OECD's 2019 Gender Index report for Kenya stated: 'The Office of the Director of Public Prosecutions [ODPP] has constituted a specialized anti-FGM Prosecution Unit. It aims to promote and support anti-FGM legislation among communities and to prosecute cases concerning FGM practice.'[72]

6.4.3 The Kenyan government referred to the unit in its January 2021 reply to the UN Human Rights Committee: 'A special unit was created in the ODPP to address and prosecute FGM, child marriages and GBV Cases. The unit is made up of 20 prosecutors.'[73]

6.4.4 In August 2020, the National Police Service launched 'Policare' which it described on its website as:

'A National Police Service (NPS) integrated response to Sexual and Gender Based Violence (SGBV) in Kenya. It is designed as a multi- agency victim cantered "ONE STOP CENTER" service provider. The service providers will include and not limited to Police, Forensic investigators, Health providers, Psychologists, DPP representative, a Magistrate on call, Medical-legal, Gender experts, Correctional personnel among others under all under one roof.'[74]

6.4.5 A Daily Nation article from December 2020, reported that: 'Currently, two Policare centres have been set up in Nairobi and Makueni counties with a plan to establish more across the country.'[75]

Back to Contents

6.5 Arrests, prosecutions and convictions for FGM-related offences

6.5.1 A joint UNFPA-UNICEF publication dated July 2017 (relating to data from 2016) reported 75 arrests, 75 cases brought to court and 10 convictions[76].

6.5.2 A joint UNFPA-UNICEF publication dated August 2019 (relating to 2018 data) reviewed law enforcement in a group of 8 countries which practise FGM – including Kenya – and noted:

'Kenya accounted for 75 per cent of the total number of arrests, 80 per cent of the total number of cases brought to court, and 50 per cent of the total number of convictions reported. In Kenya, the Joint Programme has been successful in supporting the implementation of legislation banning FGM using a comprehensive approach to capacity development of the judicial system, including strengthening community surveillance mechanisms for reporting cases of FGM, establishing mobile courts, training law enforcement officers and social workers in handling cases of FGM, as well as ensuring access to pro bono legal services for girls and women at risk of and affected by FGM – all of which may have contributed to the country's success in enforcing the law against FGM.'[77]

[72] OECD, 'Social institutions & gender index 2019 Kenya' (page 10), December 2018
[73] UN, 'Replies of Kenya to the list of issues...' (page 14), 27 January 2021
[74] Kenya Police Service, 'Policare', undated
[75] Daily Nation, 'Kenya: 'Policare' centres, a beacon of hope...', 8 Dec 2020
[76] UNFPA-UNICEF, 'Annual report 2016: accelerating change by the numbers' (page 47), July 2017
[77] UNFPA-UNICEF, 'Annual report 2018: accelerating change' (page 18), August 2019

6.5.3 The same UNFPA-UNICEF 2019 report provided data for the total number of FGM-related arrests, court cases and convictions for all 8 countries and this information has been used, together with the percentages provided above, to calculate the number of Kenyan cases for 2018 and to compare this against the figures for 2016 (see table below).

6.5.4 In its January 2021 reply to the UN Human Rights Committee, the Kenyan government provided data on the number of FGM cases and convictions for 2019/2020 but no breakdown for the individual years.[78]

6.5.5 The table below has been compiled using the UNFPA-UNICEF and Kenyan government data and indicates that while the number of cases brought to court has dropped in 2019/2020, the number of convictions and conviction rate have increased over the period 2016 to 2019/2020.

Year	Cases (X)	Convictions (Y)	Conviction rate* (Y/X)
2019/2020	85	41	48%
2018	98	15	15%
2016	75	10	13%

[79] [80] [81]

* The conviction rate is an approximate as the data doesn't specify whether all convictions in a given period relate to cases registered during the same period or if some convictions relate to cases which commenced in an earlier period.

6.5.6 In November 2018, Reuters reported: 'A woman in central Kenya was jailed for six years for forcing her 13-year-old twin daughters to undergo female genital mutilation (FGM) in a rare conviction in the east African nation.'[82]

6.5.7 A September 2020 article published by the Kenya News Agency reported: 'Police are holding two women in custody at Ntulele in Narok for circumcising three girls at Naieragie Enkare area in Narok East Sub County.'[83]

6.5.8 A November 2020 article from The Star online news site reported: 'Police in Narok South Sub County are holding 10 women subjected to Female Genital Mutilation, for allegedly participating in the crime…Among those arrested is the owner of the house and the circumciser.'[84]

6.5.9 Court cases relating to FGM offences are recorded in the Kenya Law database. Kenya Law describes itself as, 'a semi-autonomous state corporation', with a mission to, 'provide universal access to public legal

[78] UN, 'Replies of Kenya to the list of issues...' (page 14), 27 January 2021
[79] UNFPA-UNICEF, 'Annual report 2016: accelerating change by the numbers' (page 47), July 2017
[80] UNFPA-UNICEF, 'Annual report 2018: accelerating change' (page 18), August 2019
[81] UN, 'Replies of Kenya to the list of issues...' (page 14), 27 January 2021
[82] Reuters, 'Kenyan woman jailed for six years for circumcising…', 23 November 2018
[83] Kenya News Agency, 'Police arrest suspected FGM circumcisers', 10 September 2020
[84] The Star, 'Police arrest 10 women for undergoing FGM', 8 November 2020

information by monitoring and reporting on the development of jurisprudence for the promotion of the rule of law.'[85]

6.5.10 Cases recorded in the database included High Court reviews of appeals made against convictions for FGM:

- On 13 June 2018, in the case of Joan Bett v Republic, the judge dismissed an appeal against a conviction for knowingly allowing premises to be used for the purpose of performing FGM. The sentence of a fine of 200,000 ksh or a default of 3 years imprisonment was upheld[86].
- On 8 March 2019, in the case of Republic v Esther Rioba Makori, the judge quashed convictions for the offences of aiding and abetting FGM and failing to report the commission of FGM on the grounds that the original convictions were based upon a defective charge sheet[87].
- On 6 May 2019, the judge dismissed an application brought by Nizareta Rwamba to be granted bail pending her appeal. The appellant had been convicted of aiding FGM and the use of premises to perform FGM and was sentenced to 7 years imprisonment[88].
- On 27 June 2019, in the case of Tabitha Kathure v Republic, the judge dismissed an appeal against a conviction for allowing FGM to be performed on her daughter. The sentence of a fine of 200,000 ksh or a default of 3 years imprisonment was upheld[89].
- On 30 July 2020, in the case of Sarah Chumo v Republic, the judge found the previous conviction – for performing FGM – to be secure and upheld it. However, the judge found the original sentence of 12 years imprisonment or a fine of 800,000 ksh to be excessive, given the appellant was an elderly woman in poor health. The judge reduced the sentence to 12 months imprisonment[90].
- On 29 October 2020, in the case of IGK & 2 Others v Republic, relating to a conviction for aiding FGM, the judge dismissed a request for a reduction in the original sentence of 7 years imprisonment[91].

Back to Contents

7. Civil society support and assistance

7.1.1 28 Too Many, in a report published in May 2018, stated:

'Kenya has a strong network of non-governmental organisations working on programmes to end FGM and partnering with the UN Joint Programme and various government departments, including the Ministry of Health and the Ministry of Public Service, Youth and Gender. Available data suggests a

[85] Kenya Law, 'About Us', no date
[86] Kenya Law, 'Joan Bett v Republic [2018]', 13 June 2018
[87] Kenya Law, 'Republic v Esther Rioba Makori [2019]', 8 March 2019
[88] Kenya Law, 'Nizareta Rwamba v Republic [2019]', 6 May 2019
[89] Kenya Law, 'Tabitha Kathure v Republic [2019]', 27 June 2019
[90] Kenya Law, 'Sarah Chumo v Republic [2020]', 30 July 2020
[91] Kenya Law, 'IGK & 2 Others v Republic [2020]', 29 October 2020

gradual trend towards lower prevalence among younger women in Kenya in response to these government and civil-society efforts.'[92]

7.1.2 Matanda and others, in a July 2020 report for the Population Council stated: 'At the national and county levels, there are a number of CBOs, nongovernmental organisations (NGOs), and civil societies that advance human rights and implement FGM/C interventions.'[93]

7.1.3 A 2019 UNFPA-UNICEF report (relating to 2018 data) stated: 'In Kenya, 1,600 girls participated in the ARP [Alternative Rites of Passage] programme that celebrate a girl's life transition into womanhood through public ceremonies that do not involve FGM.'[94]

7.1.4 The same UNFPA-UNICEF report also noted: 'As indicated in some of the community dialogue sessions, there are improved relationships, reception and demand for FGM-related services at the police "child and gender desks", and health service points.'[95]

7.1.5 And: 'Some 1,000 centres and safe houses are believed to be in operation in Kenya to address the needs of desperate runaways. They were instrumental in the rescue of some 5,030 girls in 2018. Although these places are not an ideal or long-term solution to FGM, clearly they are filling a temporary need and serve as one prong of the Joint Programme's multifaceted and multisectoral approach.'[96]

7.1.6 And:

'Some 5,030 girls received essential services including access to safe temporary shelter, education, health and psychosocial support… Other capacity-building initiatives for service providers provided by the Joint Programme included training of 4,460 police, journallists [sic] and health officials (2,140 male and 2,320 female) on overall child protection, prevention of medicalization of FGM, gender-based violence, basic psychosocial support, case management, child-friendly case recording, evidence preservation, prosecution and referral pathways.'[97]

7.1.7 In a Population Council report from December 2018, Matanda and others described the availability of safe houses for girls who resist FGM:

'The phenomenon of "girl rescue" informally began in the late 1990s as neighbours, schools, and churches provided shelter to girls seeking protection, especially during "circumcision season" in early December. At first these efforts were largely informal, as neighbours, schools, and churches provided temporary shelter and protection to girls who were at risk of early/child marriage. Since that time, while informal child rescue has continued, formal safe houses have been built in various regions of the country… The operation of both permanent and temporary safe houses to rescue girls has not become a mainstay fixture throughout regions of Kenya

[92] 28 Too Many, 'Kenya: the law and FGM' (page 8), May 2018
[93] Matanda, D. and others, 'Lessons from a five-year research prog...' (page 6), July 2020
[94] UNFPA-UNICEF, 'Annual report 2018: accelerating change' (page 24), August 2019
[95] UNFPA-UNICEF, 'Annual report 2018: accelerating change' (page 36), August 2019
[96] UNFPA-UNICEF, 'Annual report 2018: accelerating change' (page 46), August 2019
[97] UNFPA-UNICEF, 'Annual report 2018: accelerating change' (page 84), August 2019

where the practice of FGM/C persists. In Kisii, safe houses are almost non-existent—because the Abagusii values of community would have girls who have escaped reside with relatives.'[98]

7.1.8 A joint UNFPA-UNICEF report published in August 2020 reported: 'The "Safe Stay Homes" initiative… allows girls to live with a family, rather than being placed in a more institutionalized setting. In Kuria, there are 50 such homes registered with the local chiefs and recognized by the community.'[99]

7.1.9 And: 'The Safe Stay Homes concept is spreading throughout Kenya, including in Tana River, West Pokot and Samburu counties under the Joint Programme. Plans call for further extending this community-based protection mechanism in Garissa, Kisii, Wajir, Kajiado and Marsabit counties.'[100]

7.1.10 There are a number of NGOs and CBOs with a presence in Kenya whose activities include advocacy against FGM and the provision of support to girls and women at risk of FGM. A selection is provided below:

- Samburu Girls Foundation has a head office in Samburu County (Rift Valley Province) and also operates in Marsabit (Eastern Province), Laikipia (Rift Valley Province) and Isiolo County (Eastern Province)
- Cherish Others Organisation has an office in Nairobi and supports a rescue centre in Kilgoris in Narok County (Rift Valley Province).
- Kamuthe Women's Network runs a safe house for girls and women at risk of FGM in Garissa (North Eastern Province).
- Msichana Empowerment Kuria is based in Migori County (Nyanza Province) and works to end FGM in the Kuria community.
- I_Rep Foundation works to end FGM in West Pokot County (Rift Valley Province).
- SAFE Kenya works with Maasai communities in the Loita Hills region of Narok County and also in Samburu County (both Rift Valley Province).
- Kongelai Women's Network is based in Kongelai, West Pokot County (Rift Valley Province).
- Tasaru Ntomonok provides a safe house in Narok (Rift Valley Province).
- Young Women's Christian Association (YWCA) has 7 branches in: Mombasa (Coast Province), Tana River (Coast Province), Meru (Eastern Province), Nairobi (Nairobi Province), Kisumu (Nyanza Province), Siaya (Nyanza Province) and Kisii County (Nyanza Province) that provide outreach for 21 of the 47 counties in Kenya.

[98] Matanda, D. and others, 'Tracing change in FGM: shifting norms...' (page 7), Dec 2018
[99] UNFPA-UNICEF, 'Annual Report 2019...' (page 34), Aug 2020
[100] UNFPA-UNICEF, 'Annual Report 2019...' (page 35), Aug 2020

- Akili Dada has a head office in Nairobi and supports female-focused projects across Kenya, including an anti-FGM programme in West Pokot County (Rift Valley Province).
- Equality Now has a regional office based in Nairobi.
- Coalition on Violence Against Women (COVAW) has an office in Nairobi and works in Homa Bay County (Nyanza Province), Kisumu County (Nyanza Province), Migori County (Nyanza Province), Narok County (Rift Valley Province), Kiambu County (Central Province) and Kwale County (Coast Province).
- Education Centre for the Advancement of Women (ECAW) is a Nairobi based NGO with activities and a base in Kuria (Nyanza Province).
- V-Day is a California-based charity which funds two safe houses in the towns of Narok and Sakutiek (both Rift Valley Province).

Back to Contents

8. Societal attitudes

8.1.1 The table below, compiled using 2014 DHS data, shows the level of support for FGM in Kenya among men and women aged 15-49:

Opinion asked	**% who agreed**	
	Women	Men
Circumcision is required by the community	7.9	10.6
Practice of female circumcision should be continued	6.2	9.3

101 102

8.1.2 A CPIT review of the breakdown of the data provided in the Kenya DHS 2014 (see The Kenya Demographic Health Survey) indicated that variations exist between different groups in terms of their level of support for FGM. Background characteristics linked to a higher level of prevalence of FGM also matched the groups which showed a higher level of support for FGM. For example, the proportion of women who believed that FGM was required by the community was much higher than the average of 8% in the following groups: Muslim (43%), Somali ethnicity (83%), Samburu ethnicity (72%), North Eastern region (90%), and No Education (45%).[103]

8.1.3 Kimani and others, in an article published in March 2020, commented:

'[Among the Abagusii ethnic group] those who are cut have high prospects of being marriage [sic], are respected, considered mature and their spouses held in high status. Those who are not cut are negatively sanctioned, considered immature, despised and ridiculed and could be cut when mature

[101] KNBS, 'Kenya DHS 2014' (Table 18.9), December 2015
[102] KNBS, 'Kenya DHS 2014' (Table 18.10), December 2015
[103] KNBS, 'Kenya DHS 2014' (Table 18.9), December 2015

especially while giving birth….[Among the Kuria] the community practice circumcision as a rite of passage (above 12 years) to adulthood, as a culture and tradition for both girls and boys. The community hold public FGM/C ceremonies on dates decided by the council of elders… Somalis practice FGM/C to conform with culture/traditions, enhance girls' marriageability, for aesthetics, virginity and purity, to avoid social sanctions, as well as for religious reasons.'[104]

8.1.4 Also:

'Given the value placed on FGM/C, participants from the three communities [Abagusii, Kuria and Somali] noted that girls face intense social pressure to undergo the practice. Claims that girls and women who are uncut are discriminated against and stigmatized were commonplace. For example, uncut girls were reportedly called derogatory names, disrespected and shamed. Families, too, faced social pressure to have their daughters cut even when they were not in supportive of the practice.'[105]

8.1.5 In a report published in February 2020, online news outlet, Aljazeera, stated: 'Among the Maasai, FGM is a rite of passage to adulthood, to becoming a wife and mother. Afterwards, women no longer have to bow to the elderly, as children do, to be greeted with a hand on their head.'[106]

8.1.6 A qualitative study by the Royal Tropical Institute on FGM among the Maasai, published in February 2018, found that:

'FGM/C was associated with the transition to adulthood, maintaining social status in honour of the family, marriageability, controlling female sexuality, prevailing cultural and ethnic identity and for bride price purposes, all tied to traditional beliefs and social norms… Although the law against FGM/C, education and Christianity have contributed to curb the practice of FGM/C, girls and actors that stand up against FGM/C experienced stigmatization, discrimination and peer pressure, which sometimes led to social exclusion. In addition, some leaders that do take a position against FGM/C felt the consequences by being excluded from social or cultural gatherings.'[107] P7

8.1.7 In a qualitative study published in March 2020, which focussed on three ethnic groups (Abagusii, Kuria and Somali) and involved 155 participants, Kimani and others found that:

'[Medicalization] was frequently mentioned among the Abagusii and Somali communities but hardly talked about by the Kuria, one of whom noted that medicalization was a "taboo"… Medicalized FGM/C was reportedly driven by beliefs that it reduced the risk of health complications (or ensured that they were addressed in a timely manner), shortened the recovery period, reduced the spread of communicable diseases, such as HIV, was discreet, and enabled women to give birth normally… Some participants' comments suggested that medicalization was a response to the law prohibiting FGM/C

[104] Kimani, S. and others; Plos One, 'FGM: emerging factors sustaining medi...', 2 Mar 2020
[105] Kimani, S. and others; Plos One, 'FGM: emerging factors sustaining medi...', 2 Mar 2020
[106] Aljazeera, 'The Last Cutting Season', 6 Feb 2020
[107] Royal Tropical Institute, 'Leadership and decision-making on FGM/C...', February 2018

because girls who underwent medicalized FGM/C healed quickly enabling families to keep the practice hidden.'[108]

8.1.8 And:

'Some [participants] suggested that medicalization would not lead to the abandonment of the practice and argued that medicalized FGM/C was just 'modernization' of the practice…In contrast, the health care providers believed that medicalization of FGM/C would lead to the abandonment of the practice suggesting that medicalization is a transition stage in response to people being more enlightened about the need to abandon FGM/C.'[109]

Back to Contents

9. Freedom of movement and livelihood

9.1 General information

9.1.1 For information on an assessment of the possibility of internal relocation generally, refer to: CPIN Internal relocation.

Back to Contents

9.2 Freedom of movement

9.2.1 The USSD 2020 Country Report on Human Rights Practices for Kenya, stated: 'The law provides for freedom of internal movement, foreign travel, emigration, and repatriation for citizens, and the government respected those rights, but it placed restrictions on movement for refugees.'[110]

Back to Contents

9.3 Employment

9.3.1 On the subject of women's workplace rights, the OECD's 2019 Gender Index report for Kenya stated:

'Under the Employment Act, the Ministry of Labour, labours officers and the Industrial Court have a duty to promote equality of opportunity in employment in order to eliminate discrimination in employment. The law in Kenya mandates non-discrimination on the ground of sex in employment…

'[However] inequalities between women and men in employment still remain. Women dominate in informal sector while numerous factors limit their access to formal employment and more remunerative activities… Nevertheless, the informal sector remains a significant source of employment for women and further measures are needed to enhance income generating activities.'[111]

9.3.2 On its website homepage, The Women Enterprise Fund (WEF) described itself as: 'A semi-autonomous government agency in the Ministry of Public Service, Youth & Gender Affairs established in August 2007, to provide

[108] Kimani, S. and others; Plos One, 'FGM: emerging factors sustaining medi...', 2 March 2020
[109] Kimani, S. and others; Plos One, 'FGM: emerging factors sustaining medi...', 2 March 2020
[110] USSD, '2020 Country Report on Human Rights Practices: Kenya' (section 2), 30 March 2021
[111] OECD, 'Social institutions & gender index 2019 Kenya' (page 14), December 2018

accessible and affordable credit to support women start and/or expand business for wealth and employment creation.'[112]

9.3.3 In an article by Gachiri and others, published in September 2017 – 10 years after the establishment of the WEF – the authors reported: 'The enterprise fund has given over Ksh 6.2 billion to 63,342 women groups and over 116,372 women entrepreneurs have been trained in business development and loan management.'[113]

9.3.4 Trading Economics, an online provider of economic data, in a January 2021 analysis of the Kenyan economy, reported that 49% of the total labour force in 2020 was made up of women.[114]

9.3.5 According to the Global Economy website, another provider of economic data, the labour force participation rate for women in Kenya during 2020 was 72%.[115]

Back to Contents

9.4 Housing

9.4.1 The Kenya Demographic and Health Survey 2014 indicated that 27.3% of urban residences had a female head of household and 35.8% of rural residences had a female head of household.[116]

9.4.2 In a May 2020 article on affordable housing, Kieti and others stated: 'Over 60 percent of urban households in Kenya live in deplorable human settlement conditions in slums and informal housing devoid of basic infrastructure, water and sanitation…. The supply of housing for low income households in Kenya continues to remain behind demand and majority of these urban residents live in informal settlement because they cannot afford housing in the formal market.'[117]

9.4.3 Also:

'The government of Kenya AHP [Affordable Housing Programme] is a 5-year strategy to deliver decent housing among different socio-economic groups in Kenya. Specifically, the programme will deliver 200,000 social housing units and 800,000 affordable units to poor households in slums, the lower- and middle-income groups. The first and flagship project under the AHP is implemented in Park road in Ngara estate, Nairobi and is targeting delivery of 1370 units by 2022. According to an article by Pauline Kairu in the Daily Nation Newspaper report dated August 1, 2019, some 228 housing units had been completed in August 2019 in the first phase of the Ngara Park road project and were ready for balloting by prospective applicants registered for the programme under the BomaYa n g u platform. The other housing units

[112] Women Enterprise Fund, 'Who we are', no date
[113] Gachiri, JW and others; IJSRP (Vol 7, Iss 9), 'Influence of WEF...' (page 541), Sept 2017
[114] Trading Economics, 'Kenya – labour force, female', January 2021
[115] Global Economy, 'Kenya: female labor force participation', no date
[116] KNBS, 'Kenya DHS 2014' (Table 2.9), December 2015
[117] Kieti, RM and others; Africa Habitat Review Journal, 'Affordable...' (page 1678), May 2020

will be delivered in other parts of Nairobi and across the 47 counties in Kenya.'[118]

9.4.4 In September 2020, Kenyan news site PD Online reported: 'Kenyan single women are outpacing their male counterparts when it comes to home ownership, a new study has revealed. Data released by Mizizi Africa Homes, a real estate company and property consultant, shows that single women own 67 per cent of units in four of the company's affordable housing projects compared to single men... most of the women are single mothers aged over 30 years, mostly with two kids.'[119]

Back to Contents

[118] Kieti, RM and others; Africa Habitat Review Journal, 'Affordable...' (page 1682), May 2020
[119] Umidha, S; PD Online, 'Why single women outshine male peers in buying homes', 4 Sept 2020

Terms of Reference

A 'Terms of Reference' (ToR) is a broad outline of what the CPIN seeks to cover. They form the basis for the country information section. The Home Office's Country Policy and Information Team uses some standardised ToRs, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

- Existence of FGM in Kenya
  - How widespread is the practice?

    Variations by factors such as region, ethnicity, age, wealth, education and religion
  - What types of FGM are practised and who performs the procedure?
  - Societal attitudes towards FGM
  - Trends in prevalence

- Protection against FGM
  - Legal position on FGM
  - Enforcement of the law, including arrests, prosecutions and convictions
  - State policies, strategies and campaigns
  - Effectiveness of implementation of policies
  - Role of NGOs and CBOs

- Freedom of movement and subsistence for women forced to relocate
  - Employment
  - Housing

Back to Contents

Bibliography

Sources cited

28 Too Many, 'Kenya: the law and FGM', May 2018. Last accessed: 25 January 2021

ActionAid Kenya,

'Early marriage and FGM victims in Garissa get a haven', 27 July 2019. Last accessed: 20 January 2021

'Meet the FGM heroes: Susan, Kenya', 30 January 2017. Last accessed 28 January 2021

African Child Policy Forum (ACPF) and Plan International, 'Under siege - impact of COVID-19 on girls in Africa', (page 22), June 2020. Last accessed: 7 January 2021

Africa Feeds, 'Kenya: President Kenyatta vows to end FGM by 2022', 4 June 2019. Last accessed: 11 January 2021

African Studies Center, University of Pennsylvania, 'Kenya ethnic groups', no date. Last accessed 13 April 2021

Akili Dada, 'Domtila Chesang: anti FGM crusader in West Pokot', no date. Last accessed 28 January 2021

Aljazeera, 'The Last Cutting Season', 6 Feb 2020. Last accessed: 21 January 2021

The BMJ,

'FGM: nearly 3000 girls are paraded in Kenya as pandemic hinders control efforts', 28 October 2020. Last accessed: 11 January 2021

'Kenya's president sets target to end FGM by 2022', 5 June 2019. Last accessed: 25 January 2021.

Capital News, 'Anonymous app to help end FGM in Kenya', 7 December 2020. Last accessed: 11 January 2021

Cherish Others Organisation Kenya, 'Home', no date. Last accessed: 28 January 2021

Coalition on Violence Against Women, 'Home', no date. Last accessed: 28 January 2021

Daily Nation,

'Kenya: 'Policare' Centres, a Beacon of Hope for SGBV Survivors', 8 December 2020. Last accessed: 19 January 2021

'Kenya: Shebesh Targets Circumcisers to End FGM', 9 September 2020. Last accessed: 19 January 2021

'Kenya: State Reinforces Measures to Eradicate FGM', 9 September 2020. Last accessed: 19 January 2021

The Demographic and Health Survey (DHS) Program, 'Who we are', no date. Last accessed 21 January 2021

Equality Now, 'What we do', no date. Last accessed 28 January 2021

Evidence to end FGM/C, 'Tasaru Ntomonok Initiative (TNI) and The Tasaru Rescue Centre for Girls', no date. Last accessed 28 January 2021

Feed the Minds, 'Bridget's story: saying no to FGM', 6 February 2018. Last accessed: 28 January 2021

Gachiri, JW; Okari, H and Agembo, W; International Journal of Scientific and Research Publications (Volume 7, Issue 9), 'Influence of Women Enterprise Fund on women economic empowerment in Mutuango area at Muranga County, Kenya' (page 541), September 2017. Last accessed: 26 January 2021

Global Economy, 'Kenya: female labor force participation', undated. Last accessed: 20 January 2021

Immigration and Refugee Board of Canada (IRBC), 'Response to information request: KEN43248.E', 12 January 2005. Last accessed 13 April 2021

I_Rep Foundation, 'Our Work', no date. Last accessed: 20 January 2021

Kenya Law,

'About Us', no date. Last accessed 21 January 2021

'IGK & 2 Others v Republic [2020]', 29 October 2020. Last accessed: 18 January 2021

'Joan Bett v Republic [2018]', 13 June 2018. Last accessed: 18 January 2021

'Nizareta Rwamba v Republic [2019]', 6 May 2019. Last accessed: 18 January 2021

'Republic v Esther Rioba Makori [2019]', 8 March 2019. Last accessed: 18 January 2021

'Sarah Chumo v Republic [2020]', 30 July 2020. Last accessed: 18 January 2021

'Tabitha Kathure v Republic [2019]', 27 June 2019. Last accessed: 18 January 2021

'Tatu Kamau v Attorney General & 2 others; Equality Now & 9 others (Interested Parties); Katiba Institute & another (Amicus Curiae) [2021] eKLR', 17 March 2021. Last accessed 18 May 2021

Kenya National Bureau of Statistics (KNBS),

'Kenya DHS full report 2014', December 2015. Last accessed 21 January 2021

'Kenya DHS full report 2008/9', June 2010. Last accessed 21 January 2021

'Kenya DHS full report 2003', July 2004. Last accessed 21 January 2021

Kenya News Agency, 'Police Arrest Suspected FGM Circumcisers', 10 September 2020. Last accessed: 19 January 2021

Kenya Police Service, 'Policare', undated. Last accessed: 19 January 2021

Kenyan State Department for Gender Affairs, 'Strategic Plan 2018-2022', no date. Last accessed: 19 January 2021

Kieti, RM; Rukwaro RW and Olima, WA; Africa Habitat Review Journal (volume 14, issue 1), 'Affordable Housing in Kenya: Status, Opportunities and Challenges', May 2020. Last accessed: 27 January 2021

Kimani, S; Kabiru, CW; Muteshi, J and Guyo, J; BMC International Health and Human Rights, (vol 20), 'Exploring barriers to seeking health care among Kenyan Somali women with female genital mutilation: a qualitative study', 28 January 2020. Last accessed: 20 January 2021

Kimani, S; Kabiru, CW; Muteshi, J and Guyo, J; Plos One, 'Female genital mutilation/cutting: Emerging factors sustaining medicalization related changes in selected Kenyan communities', 2 March 2020. Last accessed: 20 January 2021

Kimani, S and Obianwu, O, 'Female genital mutilation/cutting: A review of laws and policies in Kenya and Nigeria,' 2020. Last accessed: 12 January 2021

Matanda, D; Meroka-Mutua, AK and Kimani, S, 'Lessons from a five-year research programme on FGM/C and their relevance for policy and programmes in Kenya', July 2020. Last accessed: 28 January 2021

Matanda, D; Okondo, C; Kabiru, CW and Shell-Duncan, B, 'Tracing change in Female genital mutilation/cutting: shifting norms and practices among communities in Narok and Kisii Counties, Kenya,' December 2018. Last accessed: 28 January 2021

Ministry of Public Service and Gender, 'Ministry Launches 16 Days of Activism Against Gender Based Violence and Gender Based Violence Recovery Center Guidelines', 26 November 2020. Last accessed: 19 January 2021

Minority Rights Group International, 'Maasai', May 2018. Last accessed 13 April 2021

Msichana Empowerment Kuria, 'About us', no date. Last accessed: 20 January 2021

Orchid Project,

'Female genital cutting in Kenya: a baseline review of attitudes and behaviours in Kuria, Narok and Loita Hills,' February/March 2018. Last accessed: 11 January 2021

'Impacts of COVID-19 on Female Genital Cutting', (page 10), September 2020. Last accessed: 11 January 2021

Organisation for Economic Co-operation and Development (OECD), 'Social institutions & gender index 2019 Kenya', December 2018. Last accessed: 26 January 2021

Pulitzer Centre, 'Female Genital Cutting Is on the Rise During COVID in Kenya', 29 Jan 2021. Last accessed: 18 May 2021

Reuters, 'Kenyan woman jailed for six years for circumcising twin daughters', 23 November 2018. Last accessed: 26 January 2021

Royal College of Obstetricians & Gynaecologists, 'Female Genital Mutilation and its management' (page 11), July 2015. Last accessed 13 May 2021

Royal Tropical Institute, 'Leadership and decision-making on Female Genital Mutilation/Cutting among the Maasai in Kajiado: Explorative Qualitative Research Report', February 2018. Last accessed 18 May 2021

SAFE Kenya, 'Female genital cutting abandonment', 6 February 2019. Last accessed 28 January 2021

Samburu Girls Foundation, 'We fight for the girl child!', no date. Last accessed: 28 January 2021

Shell-Duncan, B; Gathara, D and Moore, Z, 'Female genital mutilation/cutting in Kenya: Is change taking place? Descriptive statistics from four waves of Demographic and Health Surveys', (page 6), February 2017. Last accessed 21 January 2021

Shell-Duncan, B; Njue, C and Moore, Z, 'Trends in medicalisation of female genital mutilation/cutting: What do the data reveal?', (page 4), October 2018. Last accessed 25 January 2021

Standard Media, 'Hospitals to get gender violence recovery centres for attack victims', 3 December 2020. Last accessed: 19 January 2021

The Star,

'FGM among Maasai stands at 77% - CS Kobia', 24 November 2019. Last accessed: 19 January 2021

'Police arrest 10 women for undergoing FGM', 8 November 2020. Last accessed: 19 January 2021

Trading Economics, 'Kenya – labour force, female', January 2021. Last accessed: 20 January 2021

Umidha, S; PD Online, 'Why single women outshine male peers in buying homes', 4 Sept 2020. Last accessed 15 April 2021

United Nations (UN) Human Rights Committee, 'Replies of Kenya to the list of issues in relation to its fourth periodic report CCPR/C/KEN/RQ/4', 27 January 2021. Last accessed 20 May 2021

UN Population Fund (UNFPA), 'State of world population', (page 66), 2020. Last accessed 25 January 2021

UNFPA-UNICEF,

'Annual report 2016: accelerating change by the numbers', July 2017. Last accessed 28 January 2021

'Annual report 2018: accelerating change', August 2019. Last accessed 28 January 2021

'Annual Report 2019: empowering girls and women to lead change', August 2020. Last accessed 26 January 2021

UNICEF, 'A profile of female genital mutilation in Kenya', March 2020. Last accessed: 11 January 2021

UN Office for the Coordination of Humanitarian Affairs (UNOCHA), 'Kenya Sector Status: Protection (Gender-based violence)', 20 October 2020. Last accessed: 19 January 2021

UN Women Africa, 'COVID-19: UN Women supports Kenya's national helpline for survivors of sexual and gender-based violence', 22 June 2020. Last accessed: 19 January 2021

US State Department (USSD), '2020 Country report on human rights practices: Kenya', 30 March 2021. Last accessed 14 April 2021

V-Day, 'V-Day safe houses for the girls in Kenya', no date. Last accessed 15 April 2021

Women Enterprise Fund, 'Who we are', no date. Last accessed: 26 January 2021

World Bank, 'In Kenya, Uplifting the Poor and Vulnerable Through a Harmonized National Safety Net System', 18 April 2019. Last accessed 15 April 2021

World Health Organisation, 'Female genital mutilation: key facts', 3 February 2020. Last accessed: 21 January 2021

XE, 'The world's trusted currency authority', Last accessed 8 March 2021

YWCA Kenya, 'Home', no date. Last accessed 28 January 2021

Back to Contents

Version control

Clearance

Below is information on when this note was cleared:

- Version 1.0
- valid from 10 June 2021

Official – sensitive: Start of section

The information in this section has been removed as it is restricted for internal Home Office use.

Official – sensitive: End of section

Back to Contents