



Home Office

Country Policy and Information Note

Kenya: Female genital mutilation (FGM)

Version 1.0

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Preface

This note provides country of origin information (COI) and policy guidance to Home Office decision makers on handling particular types of protection and human rights claims. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the policy guidance contained with this note; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Country Information

COI in this note has been researched in accordance with principles set out in the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#) and the [European Asylum Support Office’s research guidelines, Country of Origin Information report methodology](#), namely taking into account its relevance, reliability, accuracy, objectivity, currency, transparency and traceability.

All information is carefully selected from generally reliable, publicly accessible sources or is information that can be made publicly available. Full publication details of supporting documentation are provided in footnotes. Multiple sourcing is normally used to ensure that the information is accurate, balanced and corroborated, and that a comprehensive and up-to-date picture at the time of publication is provided. Information is compared and contrasted, whenever possible, to provide a range of views and opinions. The inclusion of a source is not an endorsement of it or any views expressed.

Feedback

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Independent Chief Inspector of Borders and Immigration,
5th Floor, Globe House, 89 Eccleston Square, London, SW1V 1PN.

Email: chiefinspector@icinspector.gsi.gov.uk

Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

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Policy guidance

Updated: 5 June 2017

1. Introduction

1.1 Basis of claim

- 1.1.1 Fear of persecution or serious harm by non-state agents because:
- (a) the person will be subjected to female genital mutilation (FGM); or
 - (b) the person is a parent who is opposed to the procedure being carried out on their minor child in a place where there is a real risk of it being carried out.

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1.2 Points to note

- 1.2.1 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.’ (See WHO [Factsheet on FGM](#)).
- 1.2.2 Sources use various terms to refer to FGM, including female circumcision, female genital circumcision or female genital cutting. It can be abbreviated as FGC or FGM/C. However, for the purposes of this note, the practice is referred to as FGM.
- 1.2.3 Kenya is listed as a designated state under section 94 of the Nationality, Immigration and Asylum Act 2002 in respect of men only.
- 1.2.4 Most of the statistical information in this note about the practice of FGM has been obtained from Demographic and Health Surveys carried out in Kenya. Other sources used, such as the United States State Department, use these surveys for information on the practice of FGM.
- 1.2.5 Decision makers must also consider the [Asylum Instruction on Gender Issues in Asylum Claims](#).

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2. Consideration of issues

2.1 Credibility

- 2.1.1 For information on assessing credibility, see the [Asylum 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](#)).

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2.2 Particular social group

- 2.2.1 Women and girls in Kenya in fear of FGM form a particular social group (PSG) within the meaning of the 1951 Refugee Convention. This is because they share a common characteristic – their gender – that cannot be changed and have a distinct identity which is perceived as being different by the surrounding society as evidenced by widespread discrimination in the exercise of their fundamental rights.
- 2.2.2 Although women and girls in Kenya fearing FGM form a PSG, this does not mean that establishing such membership will be sufficient to be recognised as a refugee. The question to be addressed in each case is whether the particular person will face a real risk of persecution on account of their membership of such a group.
- 2.2.3 Where a child is granted asylum, the accompanying parents may also be eligible for a grant of leave. The act of enforced FGM on a child, where the parents are opposed to the act could result in persecution of the parents. Decision makers should consider whether, on the facts of the case, accompanying parents would qualify for asylum on the basis of a well-founded fear of persecution.
- 2.2.4 For further information on particular social groups, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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2.3 Assessment of risk

a. Women and girls fearing FGM

- 2.3.1 A women or girl is unlikely to be at risk of FGM if they have already undergone the procedure. Assessment of risk must be future-facing, i.e. the likelihood that a person will be subjected to FGM (or further FGM) on return.
- 2.3.2 Although against the law and in decline, FGM continues to be practiced in Kenya amongst most ethnic groups to varying extents (see [Laws](#) and [National prevalence](#)).
- 2.3.3 FGM is mostly performed on girls and young women between the ages of 12 and 18, although there is some evidence of a trend to circumcise girls at younger ages. Twenty-eight percent of circumcised women aged 20-24 were circumcised at age 5-9, as compared with 17 percent of circumcised women aged 45-49. Twenty-one percent of women aged 15-49 have been circumcised. With respect to the type of circumcision, 2 percent of circumcised women aged 15-49 had cutting with no flesh removed, 87 percent had cutting with flesh removed, and 9 percent had their genital area sewn closed after cutting (infibulation) (see [National prevalence](#); [By age](#) and the [Kenya Demographic and Health Survey 2014](#)).
- 2.3.4 There are, however, large regional variations. The proportion of circumcised women ranges from 1 percent in the Western region to 98 percent in the North Eastern region. There are also differences in the prevalence of FGM between rural and urban areas, with on average 31 percent of women in rural areas reporting that they were circumcised, compared to just 17 percent in urban areas. The majority of women in the Somali (94 percent),

Samburu (86 percent), Kisii (84 percent), and Maasai (78 percent) groups are circumcised. In contrast, 2 percent or less of women in the Luo, Luhya, Turkana, and Mijikenda/Swahili ethnic groups are circumcised (see [By ethnicity](#)).

2.3.5 Whether a woman or girl is at real risk of undergoing FGM will depend on her personal circumstances. The factors to be taken into account by decision makers when assessing risk include but are not limited to:

- the ethnicity of the person
- the religion of the person
- the region of Kenya where she lived before coming to the UK
- her age
- the opinion and cultural practices of her parents
- her and her parents' education
- if the person is married or will be married into a different ethnic group, the practice of FGM within this ethnic group and extended family into which she has married or will be married.

2.3.6 For further information on assessing risk, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

b. [Parents who resist/oppose FGM for their minor children](#)

2.3.7 A person who is the parent of a minor child who is opposed to her undergoing FGM within communities that practice it may face societal discrimination and ostracism for going against cultural or family traditions. Decision makers need to consider each case on its facts. However, in general, this treatment is unlikely to reach the threshold to constitute persecution or serious harm.

2.3.8 For further information on assessing risk, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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2.4 [Protection](#)

2.4.1 FGM is illegal and the government has made efforts to end the practice, including running various anti-FGM programmes in partnership with international agencies. There have also been a number of successful prosecutions of persons performing FGM since 2011, when the FGM law was introduced, and Kenya's anti-FGM prosecution unit has deployed teams across the country in an attempt to prosecute more cases (see [State and international agency efforts to end FGM](#)).

2.4.2 In addition, various NGOs may be able to assist girls who wish to avoid undergoing FGM obtain state protection (see [NGO support groups](#)).

2.4.3 In general, state protection is likely to be available although each case will need to be considered on its particular circumstances taking into account factors such as the person's age, education and ethnicity. 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.

- 2.4.4 For further information on assessing the availability of state protection, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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2.5 Internal relocation

- 2.5.1 The constitution and law provide for freedom of movement within Kenya for all regardless of age or gender. Decision makers must give careful consideration to the relevance and reasonableness of internal relocation on a case-by-case basis taking full account of the individual circumstances of the particular person. In general, it will not be unreasonable for a child with her accompanying family to internally relocate to escape localised threats from other members of their family or other non-state actors (see [Freedom of movement](#)).

- 2.5.2 Women with no support network and without any accompanying family members may find it unreasonable to relocate. The individual circumstances of each case must be taken into account.

- 2.5.3 For further information on considering internal relocation, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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2.6 Certification

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

- 2.6.2 Where a claim is refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

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

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3. Policy summary

- 3.1.1 FGM is illegal in Kenya but the practice continues with around 21 percent of women having undergone the procedure. It is performed mostly on girls between the ages of 12 and 18 but sometimes as young as 7. Prevalence varies across ethnic groups, but is highest amongst the Somali, Samburu, Kisii, and Maasai communities. Women/girls living in towns and cities are generally less likely to be subject to FGM than those living in rural areas. Some girls and/or their families may be at risk of FGM/C and/or face discrimination amounting to persecution or serious harm because of their resistance to the procedure. Each case will depend on its specific facts.
- 3.1.2 The Kenyan government has made efforts to end FGM with various anti-FGM programmes being run in partnership with international agencies and has successfully prosecuted a number of FGM practitioners. In addition, various NGOs provide support and assist girls who wish to avoid undergoing FGM in obtaining protection. In general, state protection is likely to be available. The onus is on the person to demonstrate that in their particular circumstances, the state is not willing and able to provide them with protection.
- 3.1.3 In general, if a woman/girl who is at real risk of FGM, or their accompanying family, is at risk of serious harm for opposing the procedure in their home area, they may be able to relocate to another area where they would not be at risk. Each case must be considered on its facts.
- 3.1.4 Where a claim is refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

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Updated: 5 June 2017

4. Legal context

4.1 Laws

4.1.1 The United States State Department (USSD) 'Country Reports on Human Rights Practices for 2016', published on 3 March 2017, stated: 'The law makes it illegal to practice FGM/C, procure the services of someone who practices FGM/C, or send a person out of the country to undergo the procedure. The law also makes it illegal to make derogatory remarks about a woman who has not undergone FGM/C. Nevertheless, individuals practiced FGM/C widely, particularly in some rural areas.'¹

4.1.2 The '28 too many' report, 'Country Profile: FGM in Kenya', published in May 2013, stated:

'On 30 September 2011 the Prohibition of Female Genital Mutilation Act 2011 was passed by parliament and was signed into law on 6 October 2011. The Act was drafted by the Kenya Women's Parliamentary Association (KEWOPA) with support from the Parliamentary Council, the National FGM Secretariat and the UNFPA/UNICEF Joint Programme.

'The Act criminalises all forms of FGM performed on anyone, regardless of age or status, and banned the stigmatizing of a woman who had not undergone FGM in an attempt to tackle social pressure. It also made it illegal to aid someone in performing FGM, taking them abroad to have the procedure done, failing to report to the authorities if the individual was aware it had taken place or carrying out FGM on a Kenyan abroad.

'The punishment with this act is much more severe than the 2001 Act, and can apply to a wider range of perpetrators. The penalties include three-seven years' imprisonment, or life imprisonment for causing death by performing FGM and fines of nearly US\$6,000.

'Under the National Policy for the Abandonment of FGM, capacity-building of those responsible for upholding the new law has taken place. In 2011, nearly 800 police officers, probation officers, community leaders and others were trained to implement the new legislation.'²

4.1.3 The Prohibition of Female Genital Mutilation Act 2011 stated that the following acts relating to FGM are illegal:

- Offence of female genital mutilation
- Aiding and abetting female genital mutilation
- Procuring a person to perform female genital mutilation in another country

¹ United States State Department, 'Country Reports on Human Rights Practices for 2016', section 6, 3 March 2017, <https://www.state.gov/documents/organization/265478.pdf>. Accessed 18 April 2017

² '28 too many', 'Country Profile: FGM in Kenya', May 2013, pages 32-33, http://28toomany.org/media/uploads/final_kenya_country_profile_may_2013.pdf. Accessed: 20 April 2017

- Use of premises to perform female genital mutilation
- Possession of tools or equipment (used to perform FGM)
- Failure to report the commission of the offence
- Use of derogatory or abusive language intended to ridicule, embarrass or otherwise harm a woman for having not undergone female genital mutilation, or a man for marrying or otherwise supporting a woman who has not undergone female genital mutilation.³

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5. Prevalence

5.1 National prevalence

5.1.1 The Kenya Demographic and Health Survey (KDHS) 2014 provided the following information:

- Twenty-one percent of women age 15-49 have been circumcised.
- There is some evidence of a trend over time to circumcise girls at younger ages. Twenty-eight percent of circumcised women age 20-24 were circumcised at age 5-9, as compared with 17 percent of circumcised women age 45-49.
- With respect to type of circumcision, 2 percent of circumcised women age 15-49 had cutting with no flesh removed, 87 percent had cutting with flesh removed, and 9 percent had their genital area sewn closed after cutting (a procedure known as infibulation).
- Girls age 0-14 are more likely to be circumcised if their mother is circumcised. Likewise, girls age 0-14 are more likely to be infibulated if their mother is also infibulated.
- Eight percent of girls age 0-14 have had their genital area sewn closed.
- Eleven percent or less of women and men believe that the practice of female genital cutting is required by their community or their religion or that the practice should continue.’⁴

For more information, see [Kenya Demographic and Health Survey 2014](#).

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5.2 By age

5.2.1 The United States State Department (USSD) ‘Country Reports on Human Rights Practices for 2016’, published on 3 March 2017, stated:

‘FGM/C was usually performed on victims at an early age. According to the UN Children’s Fund (UNICEF), in February [2016], 21 percent of girls and women between ages 15 and 49 had undergone FGM/C...Approximately 98 percent of ethnic Somali girls and women ages 15-49 in the country had

³ Kenya law.org, ‘Prohibition of Female Genital Mutilation Act 2011’, undated, http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/ProhibitionofFemaleGenitalMutilationAct_No32of2011.pdf. Accessed: 20 April 2017

⁴ Kenya National Bureau of Statistics, ‘Kenya Demographic and Health Survey 2014’, <https://dhsprogram.com/pubs/pdf/fr308/fr308.pdf>. Accessed: 28 April 2017

undergone FGM/C. Government officials often participated in public awareness programs to prevent the practice.’⁵

- 5.2.2 The ‘28 too many’ report, ‘Country Profile: FGM in Kenya’, published in May 2013, stated:

‘In Kenya, FGM is performed most often on girls and young women, with the majority of girls being cut between the ages of 12 and 18. Other studies have shown girls are now being cut at earlier ages with girls being cut between the ages of 7 and 12. It is thought that the decrease in age is to avoid detection in response to legislation banning the practice. Another factor for why FGM is performed on young girls is that they are dependent and less aware of the health implications of FGM. The proportion of women circumcised increases with age, indicating a gradual decline in popularity of the procedure in younger generations (DHS, 2008-9). With increased education and anti-FGM initiatives, girls are less inclined to undergo the procedure. (UNICEF 2005 and UNICEF 2010).

‘In communities where FGM is performed as a rite of passage into adulthood (e.g. the Meru and Embu), girls are cut around the age of puberty. In communities where FGM is carried out to demonstrate marriageability (e.g. the Maasai and Samburu) girls undergo FGM after puberty. In other communities, girls aged 6-10 years undergo FGM (e.g. Somali, Kisii, Borana) and the Taita perform FGM on infants (Population Council 2007).’⁶

- 5.2.3 The Kenya Demographic and Health Survey (KDHS) 2014 provided the following information:

‘Communities that practice FGC [female genital cutting] have people who specialise in performing the procedure, including traditional circumcisers, traditional birth attendants, and medical professionals... Seventy-three percent of girls and 81 percent of women were circumcised by a traditional circumciser. Younger girls (age 5-9) are more likely than older girls (age 10-14) to have been circumcised by a traditional circumciser (85 percent versus 70 percent). Among women age 15-49, there has been an increase in the proportion circumcised by a traditional circumciser since the 2008-09 KDHS (75 percent).’⁷

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5.3 By education

- 5.3.1 A ‘Feed the Minds’ report, ‘Female Genital Mutilation practices in Kenya: The role of Alternative Rites of Passage - A case study of Kisii and Kuria districts’, published in March 2011, stated:

‘There are also differences in the prevalence of FGM between rural and urban areas, with on average 31% of women in the rural areas reporting that they were circumcised, compared to just 17% in urban areas. Education is

⁵ United States State Department, ‘Country Reports on Human Rights Practices for 2016’, section 6, 3 March 2017, <https://www.state.gov/documents/organization/265478.pdf>. Accessed: 18 April 2017

⁶ ‘28 too many’, ‘Country Profile: FGM in Kenya’, May 2013, page 28, http://28toomany.org/media/uploads/final_kenya_country_profile_may_2013.pdf. Accessed: 20 April 2017

⁷ Kenya National Bureau of Statistics, ‘Kenya Demographic and Health Survey 2014’, page 334, <https://dhsprogram.com/pubs/pdf/fr308/fr308.pdf>. Accessed: 28 April 2017

also a significant factor, with 54% of women without any formal education being circumcised, as opposed to 19% of women who attended secondary school.’⁸

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5.4 By ethnicity

5.4.1 The USSD Human Rights report for 2016 stated: ‘Of the 42 ethnic groups, only four (the Luo, Luhya, Teso, and Turkana, who together constitute approximately 25 percent of the population) did not traditionally practice FGM/C.’⁹

5.4.2 The ‘28 too many’ report, ‘Country Profile: FGM in Kenya’, published in May 2013, stated:

‘Kenya has great ethnic and cultural diversity, as reflected in the differing rates of FGM across the ethnic groups, as well as the type of FGM performed and the underlying reasons for practising it. Somalis who live predominantly in the North Eastern province practice FGM at a rate of 97.7%, with 75% having undergone the most severe Type III infibulation. The next highest prevalence is found among the Kisii (also known as the Abagussi or Gusii) at 96.1% and the Maasai at 73.2%. The Kisii and Maasai practice Type I clitoridectomy and Type II excision respectively.’¹⁰

5.4.3 A ‘Guardian’ report, ‘FGM in Kenya: “Girls are being paraded openly in the streets”’, dated 23 December 2016, stated:

‘Two campaigners in Migori county, close to the border with Tanzania, report that over the past month hundreds of girls belonging to the Kuria tribe have undergone FGM, and they witnessed groups of men, some armed, going door-to-door harassing the families of uncircumcised girls.

‘One of the campaigners, who has asked not to be named following threats of violence, said community leaders are breaking promises made only a few months ago to end the practice... Ceremonies started secretly, he added, with some girls being taken in the early hours, but when they realised no action was being taken to stop them, it became full-blown and very public.

“The girls are being paraded openly in the streets, wearing the celebration hats as a sign, as the community members sing and dance on public roads in celebration. I have counted more than 100 girls in the past week alone.”¹¹

5.4.4 The Kenya Demographic and Health Survey (KDHS) 2014 noted:

‘The proportion of women who are circumcised varies by ethnic group... with the majority of women in the Somali (94 percent), Samburu (86

⁸ ‘Feed the Minds’, ‘Female Genital Mutilation practices in Kenya: The role of Alternative Rites of Passage - A case study of Kisii and Kuria districts’, page 8, March 2011,

http://www.popcouncil.org/uploads/pdfs/2011RH_FGMPracticeKenya.pdf. Accessed: 20 April 2017

⁹ United States State Department, ‘Country Reports on Human Rights Practices for 2016’, section 6, 3 March 2017, <https://www.state.gov/documents/organization/265478.pdf>. Accessed: 18 April 2017

¹⁰ ‘28 too many’, ‘Country Profile: FGM in Kenya’, May 2013, page 7 (executive summary),

http://28toomany.org/media/uploads/final_kenya_country_profile_may_2013.pdf. Accessed: 20 April 2017

¹¹ ‘The Guardian’, ‘FGM in Kenya: “Girls are being paraded openly in the streets”’, 23 December 2016, <https://www.theguardian.com/society/2016/dec/23/fgm-in-kenya-girls-are-being-paraded-openly-in-the-streets>. Accessed: 20 April 2017

percent), Kisii (84 percent), and Maasai (78 percent) groups being circumcised. In contrast, 2 percent or less of women in the Luo, Luhya, Turkana, and Mijikenda/Swahili ethnic groups are circumcised. Rural women (26 percent) are more likely than urban women (14 percent) to be circumcised. There are large regional variations; the proportion of circumcised women ranges from 1 percent in Western to 98 percent in North Eastern.’¹²

- 5.4.5 A United Nations Children’s Fund (UNICEF) report, ‘In Kenya, a mother leads the movement to stop FGM in her community’, dated 9 February 2017, stated:

‘Mary Oloiparuni’s childhood came to an abrupt end when she was 13 years old. Now, at 30, she recalls that painful day as she sits in her homestead in Leboo Village, Kajiado County, surrounded by her five children.

‘The day did not come as a surprise, she knew about it. Her mother had told her that she would undergo the age-old tradition of circumcision, alongside her brothers...The Maasai community where Mary comes from are known for their beautiful traditional regalia and rich culture. But behind the beauty is the ugly practice of Female Genital Mutilation (FGM) that is performed by 78 per cent of the community.

‘The national prevalence of FGM in Kenya stands at 21 per cent, according to the 2014 Kenya Demographic Health Survey...Nonetheless, FGM is still practised in secret, violating the rights of thousands of girls and women... In north-eastern Kenya, the Somali community has the highest prevalence of FGM. A shocking 94 per cent perform this violation, and 5 per cent of women and 6 per cent of men believe that it is required by their religion.’¹³

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5.5 By religion

- 5.5.1 The ‘28 too many’ report, ‘Country Profile: FGM in Kenya’, stated:

‘In Kenya, the role of religion in the practice of FGM is complex, and often intersects with ethnicity. Of the women surveyed in one study, only 7% felt that FGM is required by their religion. Those who were already circumcised were more likely to believe it is required by their religion (DHS, 2008-09). Of the two ethnic groups with the highest percentage of women circumcised, one (the Somali peoples) is predominantly Muslim and the other (the Kisii) is predominantly Christian. The proportion of women in the North Eastern province (home of the Somalis who practice near universal FGM who believe cutting is required by Islam is extremely high, at 86.5% (DHS, 2008-09). This, in part, explains the resistance to ending FGM in some groups (Population Council, 2009). The percentage of Muslim women circumcised (44.4%) is nearly double to that of Christian women (17.7%). However, the same survey suggests that more Christian women (26%) are in favour of

¹² Kenya National Bureau of Statistics, ‘Kenya Demographic and Health Survey 2014’, page 334, <https://dhsprogram.com/pubs/pdf/fr308/fr308.pdf>. Accessed: 28 April 2017

¹³ UNICEF, ‘In Kenya, a mother leads the movement to stop FGM in her community’, 9 February 2017, https://www.unicef.org/infobycountry/kenya_94722.html. Accessed: 20 April 2017

continuing FGM than Muslim women. (15%). Religious groups and officials are involved in the eradication of FGM.’¹⁴

5.5.2 The Kenya Demographic and Health Survey (KDHS) 2014 provided more up-to-date information:

‘Respondents’ opinions about whether circumcision is required by their religion vary according to ethnic group; the majority of Somali women (82 percent) and men (83 percent) believe that circumcision is required by their religion. Residents of North Eastern are most likely to report that circumcision is required by their religion (89 percent of women and 87 percent of men). Women (36 percent) and men (37 percent) with no education are more likely to report that circumcision is required by their religion than women and men with any education. Women (15 percent) and men (14 percent) in the lowest wealth quintile are most likely to believe that circumcision is required by their religion.’¹⁵

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6. State and international agency efforts to end FGM

6.1.1 The Kenyan government has established the Anti-FGM Board, ‘a Semi-Autonomous Government Agency that was established in December 2013 following the enactment of the Prohibition of Female Genital Mutilation Act, 2011. It is in the Ministry of Public Service, Youth and Gender Affairs.’ The Board’s mission is: ‘To uphold the dignity and empowerment of girls and women in Kenya through the coordination of initiatives, awareness creation, and advocacy against FGM’.¹⁶

6.1.2 The functions of the Anti-FGM Board include:

- ‘design, supervise and co-ordinate public awareness programmes against the practice of female genital mutilation
- generally advise the Government on matters relating to female genital mutilation and the implementation of the Act
- design and formulate a policy on the planning, financing and co-ordinating of all activities relating to female genital mutilation
- provide technical and other support to institutions, agencies and other bodies engaged in the programmes aimed at eradication of female genital mutilation
- design programmes aimed at eradication of female genital mutilation
- facilitate resource mobilization for the programmes and activities aimed at eradicating female genital mutilation; and

¹⁴ ‘28 too many’, ‘Country Profile: FGM in Kenya’, May 2013, page 26,

http://28toomany.org/media/uploads/final_kenya_country_profile_may_2013.pdf. Accessed: 20 April 2017

¹⁵ Kenya National Bureau of Statistics, ‘Kenya Demographic and Health Survey 2014’, page 339,

<https://dhsprogram.com/pubs/pdf/fr308/fr308.pdf>. Accessed: 28 April 2017

¹⁶ Anti FGM Board, ‘Who we are’, undated, <http://antifgmboard.go.ke/>. Accessed: 5 May 2017

- perform such other functions as may be assigned by any written.’¹⁷

6.1.3 A ‘Daily Nation’ report, ‘Kenya has made huge strides in anti-FGM fight,’ dated 19 December 2016, stated:

‘A joint programme in 2008 by the United Nations Population Fund (UNFPA) and United Nations Children’s Fund (Unicef) has played a catalytic role in ending the rite of passage...The government’s Anti-FGM Board leads in coordination and accelerating the end of FGM.

‘The joint programme has also found support from various groups which include parliamentarians who continue to advocate for implementation of the FGM Act, which they played a key role in enacting in 2011.

‘In addition, the office of the Director of Public Prosecutions has established the Anti-FGM and Child Marriage Prosecution Unit to fast-track the prosecution of FGM and child marriage cases. Prosecution officers have been trained on FGM prevention and response in order to handle FGM cases properly...As a result of the above interventions, there is good progress in the implementation of the FGM Act. However, FGM is still endemic despite the existence of legislation, administrative directives, judicial sanctions, and awareness-raising efforts by a variety of agencies and the government.

‘The UNFPA-Unicef joint programme is implementing various approaches to end FGM. The programme endorses Alternative Rites of Passage (ARP). It consists of a series of activities replacing the harmful FGM with non-harmful traditional rituals highlighting girls’ initiation into adulthood. It is a way for the family and community to mark this important moment in an adolescent girl’s life, without any alteration of any type to the girl’s body.’¹⁸

6.1.4 A ‘Standard’ (Kenya) report, ‘Needed: A national strategy to eliminate FGM’, dated 6 February 2015, stated

‘Today is the World Day for Zero Tolerance to FGM. The UK Government, together with the United Nations Joint Programme on FGM/C (UNFPA-UNICEF) wish to take this opportunity to recognise the achievements to date of the Government of Kenya towards eradicating female genital mutilation, and to reaffirm our commitment to supporting them in their efforts to end FGM within a generation.

‘The UK Government supports the UN Joint Programme on FGM/C in 17 countries as well as The Girl Generation, a campaign team working to galvanise the Africa-led movement to end FGM.

‘Both programmes are active in Kenya and work closely with the government here.

‘The UN Joint Programme works with local partners to deliver community education programmes to highlight the issues around FGM and to advocate for “Alternative Rites of Passage”, in which the girl experiences all the

¹⁷ Anti FGM Board, ‘Functions of the Board’, undated, <http://antifgmboard.go.ke/functions/>. Accessed: 5 May 2017

¹⁸ ‘Daily Nation’, ‘Kenya has made huge strides in anti-FGM fight,’ 19 December 2016, <http://www.nation.co.ke/health/Kenya-has-made-huge-strides-in-anti-FGM-fight/3476990-3491900-mf0oo0/>. Accessed: 20 April 2017

elements of the ceremony marking the transition to womanhood, but is not cut.’¹⁹

6.1.5 The USSD Human Rights report for 2016 stated: ‘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 the practice of FGM/C increasingly occurred underground to avoid prosecution by authorities.’²⁰

6.1.6 A ‘Guardian’ report, ‘Kenya couple deny murder in FGM case’, dated 4 June 2014, stated:

‘A Masai couple charged with the murder of a girl who was in their care and bled to death after being subjected to female genital mutilation (FGM) pleaded not guilty in a Kenyan court on Wednesday... The couple, who have been remanded in custody since 15 April, were refused bail. The prosecutor opposed their release on the grounds that they come from the same area as the witnesses in the case and that they posed a flight risk. A bail hearing has been set for 26 June.

‘The couple also face charges in a lower court of aiding and abetting FGM. Another woman was charged alongside the couple in both cases, but the murder charge against her was recently dropped... “We have been practising female circumcision since time immemorial,” a Masai man, who asked not to be named, said. “This is just one of the rare cases where somebody has died from the rite, there is nothing criminal about it.”

‘But Christine Nanjala, the head of a newly formed anti-FGM unit in Kenya’s office of the director of public prosecutions, said: “We hope these cases will act as a deterrent and will bring out that the law is being enforced.”... Stiffer legislation against FGM was passed in 2011, making it illegal to promote or facilitate the practice, but awareness of the law remains low. Of the 71 FGM cases taken to court since 2011, police statistics suggest convictions have been secured in 16 cases; 33 are still pending before the court. Activists describe corruption as a barrier to gathering sufficient evidence to successfully prosecute perpetrators of FGM. Many witnesses are unwilling to testify.

‘Kenya’s 20-strong anti-FGM prosecution unit, established in April [2014], is deploying teams across the country in an attempt to prosecute more cases... The anti-FGM prosecution unit has brought several cases to court, including the case being heard in Machakos and another case against a chief who sought to mutilate his own daughters.’²¹

6.1.7 In its concluding observations, the United Nations Committee on Economic, Social and Cultural Rights stated in April 2016 that: ‘The Committee remains concerned that, despite the fact that female genital mutilation tends to be

¹⁹ ‘Standard’ (Kenya), ‘Needed: A national strategy to eliminate FGM’, 6 February 2015, <http://www.standardmedia.co.ke/article/2000150727/needed-a-national-strategy-to-eliminate-fgm>.

Accessed: 21 April 2017

²⁰ United States State Department, ‘Country Reports on Human Rights Practices for 2016’, section 6, 3 March 2017, <https://www.state.gov/documents/organization/265478.pdf>. Accessed: 18 April 2017

²¹ ‘The Guardian’, ‘Kenya couple deny murder in FGM case’, 4 June 2014, <https://www.theguardian.com/society/2014/jun/04/kenya-couple-deny-murder-fgm-case>. Accessed: 28 April 2017

gradually decreasing, it is still rampant, particularly in the North Eastern region, where the prevalence rate is 97.5 per cent, and that the perpetrators are rarely convicted and punished under the Prohibition of Female Genital Mutilation Act.’²²

- 6.1.8 The Centre for Reproductive Rights noted in its supplementary information to the United Nations Committee on the Rights of the Child:

‘In response to the inquiry from the Committee regarding measures undertaken to combat harmful practices such as FGM, the government cited the law against FGM which was passed in 2011 and the establishment of the Anti-FGM Board which mandated to formulate policies, mobilize resources, design and co-ordinate public awareness programs and advise the government on issues related to the FGM...Nevertheless, it failed to specify the concrete steps it is taking to effectively enforce the law. It also did not provide additional information on the work of the Anti-FGM Board and the impact of the initiative in reducing FGM since its establishment.’²³

- 6.1.9 A ‘Daily Nation’ report, ‘MPs to raise money for the surgical repair of fgm victims’, dated 28 February 2017, stated:

‘In “The Nairobi Declaration”, MPs from Kenya, Somalia, Sudan, Ethiopia, Egypt, Senegal and Djibouti vowed to focus on laws that inhibit the practice [of FGM]...“Even the best laws cannot be 100 per cent overseers if they are not well implemented,” said Court of Appeal judge Martha Koome. “The prosecution of the perpetrators of these acts in Kenya, for example, is so far apart. As a judge I expect during the peak seasons of FGM to have more people arrested and charged. But that is not the case. The chiefs, police, elders, communities are still not reporting these cases as expected.”’

‘Despite creation of the anti-FGM prosecution unit in Kenya under the office of Director of Public Prosecutions in 2014, there is still little to write home about in the war against the practice.’

“We have a very comprehensive legal framework,” said Ms Christine Nanjala, head of the unit. “(but) our challenge is apathy from the community. In addition, some of our key witnesses are forced to withdraw support of the prosecution side because of the hostilities they face back home.”’

‘As a result, many such wrongs go unpunished in the country.’²⁴

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7. Societal attitudes

- 7.1.1 A ‘Feed the Minds’ report, ‘Female Genital Mutilation practices in Kenya: The role of Alternative Rites of Passage - A case study of Kisii and Kuria

²² United Nations Committee on Economic, Social and Cultural Rights, Concluding observations on the combined second to fifth periodic reports of Kenya, 6 April 2016, para 39, http://www.ecoi.net/file_upload/1930_1460636706_q1606900.pdf. Accessed: 23 May 2017

²³ Centre for Reproductive Rights, ‘Supplementary information on the List of Issues for Kenya scheduled for review by the Committee on the Rights of the Child during its 71st Session’, p9,15 December 2015, http://www.ecoi.net/file_upload/1930_1461840078_int-crc-ngo-ken-22638-e.pdf. Accessed: 23 May 2017

²⁴ ‘Daily Nation’ (Kenya), ‘MPs to raise money for the surgical repair of fgm victims’, 28 February 2017, <http://www.nation.co.ke/lifestyle/women/KENYA-MPs-to-raise-money-for-the-surgical-repair-of-fgm-victims/1950830-3831754-req1o4z/>. Accessed: 23 May 2017

districts', published in March 2011, stated: 'Communities that practice FGM report a variety of social and religious reasons for continuing with it. Deeply rooted customs, linked to social and economic benefits, are associated with FGM.'²⁵

- 7.1.2 The '28 too many' report, 'Country Profile: FGM in Kenya', published in May 2013, stated:

'There are conflicting reports on the perception of FGM amongst women. In one report, 42% of women surveyed believe FGM is a good tradition (UNICEF, 2005). In contrast, another survey stated that most women in Kenya aged 15-49 have heard of female circumcision (96%), and the majority believe that the practice should be stopped (82%) (DHS 2008-9). Among women who have been cut, 59% say they do not see any benefit to the practice (DHS 2008-9). However, in the North Eastern province most women defend FGM (Somalis), with 90% supporting its continuation, compared to 9% overall (DHS 2008-09). Men's attitudes seem to be changing with there being an increasing trend among young men to publicly announce their preference to marry uncut girls (UNFPA/UNICEF, 2011). One study among the Massai found that a significant proportion of unmarried boys (46%) had a preference for uncut girls or stated that a girl's circumcision status did not matter, compared to 68% of all respondents stating that they wanted FGM to continue (Coexist, 2012).'

- 7.1.3 An Institute for War and Peace Reporting (IWPR) article, 'Local Kenyan Chiefs in FGM Controversy 28 too many', dated 23 June 2014, stated:

'More than 2,000 women and men from the Maasai community gathered in Kajiado, south of Nairobi, on June 12 [2014] to protest against a 2011 law specifically banning FGM. It was the second such demonstration held in the town this month...Communities that still carry out FGM are trying to get the government to change the law and respect it as a legitimate cultural practice.

'Laila Nailole, who spoke at the June 12 demonstration as a representative of local Maasai women, said her community would continue to practice FGM...IWPR spoke to members of the Maasai community in Kajiado who refuse to give up FGM.

'Angel is only one year old but her mother has already decided that she will undergo the procedure...She does not understand why the practice is illegal given the cultural belief that it averts a curse on the wider family.'

- 7.1.4 A 'Standard' (Kenya) report, 'Needed: A national strategy to eliminate FGM', dated 6 February 2015, stated:

'Last year, hundreds of young Samburu girls held a march in Maralal to protest against female genital mutilation (FGM). Meanwhile, just a few kilometres away, a delegation of elders from Samburu came together to

²⁵ 'Feed the Minds', 'Female Genital Mutilation practices in Kenya: The role of Alternative Rites of Passage - A case study of Kisii and Kuria districts', page 8, March 2011, http://www.popcouncil.org/uploads/pdfs/2011RH_FGMPracticeKenya.pdf. Accessed: 20 April 2017

²⁶ '28 too many', 'Country Profile: FGM in Kenya', page 29, http://28toomany.org/media/uploads/final_kenya_country_profile_may_2013.pdf. Accessed: 20 April 2017

²⁷ Institute for War and Peace Reporting (IWPR), 'Local Kenyan Chiefs in FGM Controversy', 23 June 2014, <https://iwpr.net/global-voices/local-kenyan-chiefs-fgm-controversy>. Accessed: 20 April 2017

voice their total opposition to any efforts to end FGM in their community. Unfortunately, this remains a common refrain. Within many ethnic groups in Kenya, as elsewhere, FGM is a practice deeply embedded in traditional and cultural norms.’²⁸

- 7.1.5 The NGO, Cultural Survival, noted in its submission to the United Nations Committee on the Rights of the Child in December 2015:

‘Many international organizations have decried the practice of female genital cutting, without truly understanding the cultural significance of the practice, in that it is a rite of passage for Indigenous girls. There have been incidences of kidnapping and child exploitation of Indigenous girls ages 9-18 under the guise of saving these girls, a practice that is terrifying for both the girls and the parents. The girls are forcibly taken and brought to rescue homes. The Indigenous girls are “often later abandoned, neglected, not parented, raped, and have unwanted pregnancies.” There are studies that suggest this practice is actually a part of the sex trade and yet this “activism” continues to be funded internationally and locally. Furthermore, to avoid being persecuted by international organizations, many Maasai families are circumcising and marrying off their daughters are [sic] very early ages.’²⁹

- 7.1.6 The Kenya Demographic and Health Survey (KDHS) 2014 found that:

‘Six percent of women and 9 percent of men believe that circumcision should continue. Among women, there has been some change since 2008-09 in the percentage who believe that the practice should continue (9 percent). The patterns seen above for respondents’ opinions on whether female circumcision is required by their religion or their community are repeated. There has been a slight decrease since 2008-09 in the proportion of circumcised women who believe that the practice should continue (from 29 percent in 2008-09 to 23 percent in 2014); the proportion has also decreased among women living in Nyanza (from 17 percent to 9 percent) and Nairobi (from 6 percent to 2 percent). However, there has been a slight increase since 2008-09 in the proportion of women with no education who believe that the practice should continue (from 34 percent to 40 percent).’³⁰

See also the [UNICEF Statistical Profile on FGM in Kenya](#).

- 7.1.7 A NewsDeeply ‘Women and Girls’ report, ‘Money is the Motivator as Kenyan Clan Elders Continue to Push for FGM’, dated 7 December 2016, stated:

‘While the FGM rate among some ethnic groups in Kenya is declining, the Kuria people have staunchly resisted change. One reason for this, according to activists trying to reverse the FGM trend in Kenya, is money.

‘Parents pay between 500 and 1,000 Kenyan shillings (\$5 to \$10) for their daughters to be circumcised, a procedure performed by a female cutter. Half

²⁸ ‘Standard’ (Kenya), ‘Needed: A national strategy to eliminate FGM’, 6 February 2015, <http://www.standardmedia.co.ke/article/2000150727/needed-a-national-strategy-to-eliminate-fgm>. Accessed: 21 April 2017

²⁹ Cultural Survival, ‘Convention on the Rights of the Child Shadow Report Submission: Indigenous Children’s Rights Violations in Kenya’, December 2015, p3, http://www.ecoi.net/file_upload/1930_1461845525_int-crc-ngo-ken-22639-e.pdf. Accessed: 23 May 2017

³⁰ Kenya National Bureau of Statistics, ‘Kenya Demographic and Health Survey 2014’, page 342, <https://dhsprogram.com/pubs/pdf/fr308/fr308.pdf>. Accessed: 28 April 2017

of the fee goes to a clan of elders, an exclusively male group that decides on cultural events and traditions. The elders choose if and when the cutting season for FGM goes ahead and, for them, the tradition has come to signify an opportunity to significantly boost their annual income.

'Research by the Education Center for the Advancement of Women (ECAW) found that each clan member receives up to 25,000 shillings (\$250) every cutting season, as well as gifts of alcohol and food from the families of girls being cut. For these men, who earn very little as farmers, especially following the departure of major cash crop companies in the last decade, there is little incentive to stop FGM.

"They complain they don't have an alternative source of income. They get a lot of money during the season," says ECAW program officer Cess Mugo. "One clan of elders said it was a way of appeasing ancestors; others didn't want to be the ones who break with tradition. But money is a big issue."...When asked earlier this year, Nyabasi clan elders said they would cancel the cutting season, because of government pressure to end the practice...But more recently, others in the community have said elders were hiding the fact that girls would be cut this year because they are afraid of getting into trouble with authorities...Although Kenya introduced robust anti-FGM legislation in 2011, with possible jail sentences for anyone aiding the practice, activists say FGM is just going underground...Groups like ECAW run education programs for families, teaching them about the dangers of FGM and challenging the stigmas around uncut girls, who are traditionally ostracized from society and find it hard to marry. ECAW also works on confidence-building for parents and other family members who are against FGM, so they feel empowered to disobey orders from clan elders...Despite the reluctance among elders to end the practice, activists say they see positive signs that attitudes are gradually changing, especially among younger generations. Previously, most fathers felt compelled to get their daughters cut because they would fetch a higher dowry. But now, in the wake of various awareness campaigns, some opponents of FGM in Kuria say uncut girls are now getting a higher dowry than girls who have undergone FGM.'³¹

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8. NGO support groups

8.1.1 The United States State Department (USSD) 'Country Reports on Human Rights Practices for 2016', published on 3 March 2017, stated: 'Some churches and NGOs provided shelter to girls who fled their homes to avoid FGM/C, but community elders frequently interfered with attempts to stop the practice. Various communities and NGOs instituted "no cut" initiation rites for girls as an alternative to FGM/C, but in some communities this effort was unsuccessful.'³²

³¹ NewsDeeply 'Women and Girls' report, 'Money is the Motivator as Kenyan Clan Elders Continue to Push for FGM', 7 December 2016, <https://www.newsdeeply.com/womenandgirls/articles/2016/12/07/money-motivator-kenyan-clan-elders-continue-push-fgm>. Accessed: 24 May 2017

³² United States State Department, 'Country Reports on Human Rights Practices for 2016', section 6, 3 March 2017, <https://www.state.gov/documents/organization/265478.pdf>. Accessed: 18 April 2017

8.1.2 An 'Afrika Reporter' article, 'The Girl Generation: the NGO determined to stamp out FGM in African countries', dated 13 September 2015, stated:

'It is one of the leading non-governmental organisations that have been spear heading efforts to end FGM in Kenya and other African countries.

'Launched December 2014 on the eve of international day of the girl child, The Girl Generation began with pioneering activists across the African continent, who have campaigned for change over many decades, often in the face of fierce opposition, and with very limited resources... The Girl Generation whose goal is to contribute towards ending FGM within a generation, has put efforts into accelerating the adoption of the new social norm of valuing the uncut girl child.

'Secondly, the ngo aims to achieve structural changes to support this social change in terms of policy and legal framework, political will, health and education systems.

'The Girl Generation will do this by catalyzing social change at national level measured by changes in public attitudes and awareness, levels of political will and investment, and levels of engagement and debate on the issue.

'It will also lobby for international donor and private sector commitments to provide increased resources for national and local efforts to end FGM.

'The Girl Generation has also formed a Strategic Advisory Group with members drawn from 10 different countries where FGM is mostly practiced.

'The 12 member team which was formed on a rationale of those members who have campaigned for change on FGM most in African countries with less resources but also with different expertise on FGM band resource mobilization, Masudi Hamimu The Girl Generation Communications and Advocacy Manager says.'³³

8.1.3 A 'World Vision' article, 'International Day of Zero Tolerance for Female Genital Mutilation', dated 6 February 2017, stated:

'The number of young women and girls in danger of facing Female Genital Mutilation (FGM) in Kenya is steadily falling as a coalition of government authorities, NGOs and local communities have set up safe houses while attempting to change traditional cultural practices... World Vision experts say the prevalence of FGM in the East African country vary widely across age, location, ethnic group, and religion. These factors have led the charity to devise various intervention methods to curb the practice of FGM among the most affected communities.

'Phiona Koyiet, World Vision's National Coordinator for Gender and Disability said: "We have set up 7 dormitories or safe houses for girls in danger of FGM in their families and communities in the Narok county of Kenya. We also have over a hundred other safe houses across Kenya. Working with the government, other NGOs, community and religious leaders and academics, we have also designed a program called Alternative Rites of Passages

³³ 'Afrika Reporter', 'The Girl Generation: the NGO determined to stamp out FGM in African countries', 13 September 2015, <http://www.afrikareporter.com/the-girl-generation-the-ngo-determined-to-stamp-out-fgm-in-african-countries/>. Accessed: 5 June 2017

(ARPs), which consists of a series of activities replacing the harmful FGM with non-harmful traditional rituals highlighting girls' initiation into adulthood...It is estimated that more than 200 million girls and women alive today have undergone Female Genital Mutilation in the countries where the practice is concentrated. World Vision is working in these countries to ensure that children are protected from FGM and forced marriage but we need the support of governments to ensure more girls are kept safe.”³⁴

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9. Freedom of movement

- 9.1.1 The United States State Department (USSD) 'Country Reports on Human Rights Practices for 2016', published on 3 March 2017, stated: 'The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation. The government generally respected these rights but increasingly enforced restrictions on refugees' movements.'³⁵
- 9.1.2 The Social Institutions and Gender Index website, accessed on 20 April 2017, provided the following information: 'There do not appear to be any legal constraints on women's freedom of movement and access to public space in Kenya. Previously existing requirements that women secure their husband's or father's consent before obtaining a passport have been removed.'³⁶

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³⁴ 'World Vision', 'International Day of Zero Tolerance for Female Genital Mutilation', 6 February 2017, <http://www.worldvision.org.uk/news-and-views/latest-news/2017-news/fe/international-day-zero-tolerance-female-genital-mutilation-c/>. Accessed: 5 June 2017

³⁵ United States State Department, 'Country Reports on Human Rights Practices for 2016', section 2d, 3 March 2017, <https://www.state.gov/documents/organization/265478.pdf>. Accessed: 20 April 2017

³⁶ Social Institutions and Gender Index, 'Kenya', undated, <http://www.genderindex.org/country/kenya>. Accessed: 20 April 2017

Version control and contacts

Contacts

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Clearance

Below is information on when this note was cleared:

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First version in CPIN format.

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