



## RESPONSES TO INFORMATION REQUESTS (RIRs)

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### KEN102625.E

Kenya: The practice of female genital mutilation (FGM); the prevalence of FGM among specific ethnic groups; state protection available to victims (2005 - October 2007)

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The prevalence rate of female genital mutilation (FGM) varies by ethnic group (UN 22 Mar. 2005; Eke June 2006, 6). The United Nations (UN) Integrated Regional Information Networks (IRIN) states that activists opposed to FGM estimate that 32 percent of women in over half of Kenya's districts have undergone FGM and that such estimates can go as high as 98 percent for the northeastern region of the country (UN 30 Mar. 2007; see also FGC Education and Networking Project n.d.). Specifically, the Population Council, an international non-governmental organization that conducts research on reproductive health and other population issues (n.d.), reports that 96 percent of women in the Abagusii community have been subjected to FGM (Feb. 2007). According to other sources, 97 percent of women in the Somali ethnic group have undergone FGM (*The Dominion* 11 Feb. 2005) and 99 percent of women in the Embu ethnic group have experienced it (Eke June 2006, 6). An article by IRIN further states that over 80 percent of women in the Maasai community have undergone FGM (UN 9 Mar. 2005). The UN's Population Fund (UNFPA) also notes that members of the Pokots community continue to perform FGM (UN 9 Sept. 2005). However, the practice is "unheard of" in the Luo and Luhya communities (UN 9 Mar. 2005).

The UN Special Rapporteur, who examines the situation of human rights and fundamental freedoms of indigenous people, states in his report on a December 2006 mission to Kenya, that FGM is still "practised widely among numerous indigenous communities such as the Maasai, Samburu, Somali and Pokot, as part of the culturally sanctioned rites of passage" (UN 26 Feb. 2007, Para. 79). The United Nations Children's Fund (UNICEF) states that, even though the practice has declined across the country, FGM is still practised in 60 of Kenya's 75 districts (UN 24 Aug. 2006) while an article in *The Nation* indicates that approximately 75 percent of Kenya communities practise FGM (10 Dec. 2005).

### State protection

In 2001, Kenya passed the *Children's Act, 2001* which protects children from harmful cultural rites and which specifically states:

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. (Kenya 2001, Sec. 14)

However, some activists are critical that the legislation protects only children under the age of 18 years old and there is no legal protection for women over the age of 18 years (Women's eNews 8 Feb. 2005; UN 29 Apr. 2005, Para. 12; *The Nation* 10 Dec. 2005). An article by IRIN indicates that Kenya has signed the 2005 Maputo Protocol, which explicitly prohibits FGM (UN 30 Mar. 2007). IRIN observes that even though there is legislation against FGM, the practice remains widespread and the law is rarely enforced (UN 22 Mar. 2005). In addition, the legislation has sometimes driven FGM underground instead of reducing it (*The Nation* 10 Dec. 2005; UN 22 Mar. 2005) and as a consequence, many women may avoid seeking proper medical care if they suffer complications (ibid.). Amnesty International (AI) reports that the *Sexual Offences Act 2006* was passed in May 2006 but AI notes that it does not criminalize forced FGM (2007).

*Country Reports on Human Rights Practices for 2006* provides the following examples of arrests for FGM: in December 2005, four parents and a man were arrested for performing FGM, also one woman entered a guilty plea to performing FGM on four girls, and the Commissioner of the Kuria district asked the police to arrest parents who had forced their daughters to be subjected to FGM; in January 2006, police arrested parents who forced their daughter to undergo FGM (US 6 Mar. 2007, Sec. 5). IRIN reports that Muslim leaders in northeastern Kenya are speaking out against FGM (UN 30 Mar. 2007). The government has also been promoting public awareness and the use of alternative rites in addition to developing education campaigns in its struggle against FGM (UN 22 Mar. 2005). The Minister of Gender, Sports, Culture and Social Services has publicly stated support for eradicating "retrogressive" practices like FGM (Kenya n.d.).

*Country Reports 2006* also mentions that FGM is usually performed on young girls and that even though non-governmental organizations and some churches provide shelter to those fleeing the practice, community elders often intervene to ensure that FGM is performed (US 6 Mar. 2007, Sec. 5). This source also indicates that women who have not undergone FGM are often socially stigmatized (ibid.). In April 2005, police officials removed 17 girls against their will from a shelter in Eldoret and returned them to their respective villages (ibid.). *Country Reports 2006* also mentions that three years after they fled their homes to evade FGM, 20 other girls are still living in hiding with the assistance of a church (ibid.).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

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#### Additional Sources Consulted

**Oral sources:** Attempts to contact the Child Rights Advisory Documentation and Legal Centre (CRADLE) and the Federation of Women Lawyers Kenya (FIDA-Kenya) were unsuccessful.

Maendeleo Ya Wanawake Organization (MYWO), the Coalition on Violence against Women (COVAW) - Kenya, a project coordinator at the Universities of Nairobi, Illinois and Manitoba (UNIM) and the Association of Media Women in Kenya (AMWIK) did not provide information within the time constraints of this Response.

**Internet sites, including:** Association of Media Women in Kenya (AMWIK), British Broadcasting Corporation (BBC), European Country of Origin Information Network (ecoi.net), Foundation for Women's Health Research and Development (FORWARD), Freedom House, Human Rights Watch (HRW), Inter-African Committee on Traditional Practices Affecting the Health of Women and Children, Maendeleo Ya Wanawake Organization (MYWO), Ministry of Health, Ministry of Justice and Constitutional Affairs, Network against Harmful Traditions (NAHT), Office of the United Nations High Commissioner for Human Rights (OHCHR), United Kingdom Home Office.

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