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Assessing the role of law in reducing the practise of FGM/C in Kenya

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Evidence to
End FGM/C



Research to Help Girls and Women Thrive

ASSESSING THE ROLE OF LAW IN REDUCING THE PRACTISE OF FEMALE GENITAL MUTILATION / CUTTING IN KENYA

February 2020



ASSESSING THE ROLE OF LAW IN REDUCING THE PRACTISE OF FEMALE GENITAL MUTILATION/CUTTING IN KENYA

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Evidence to End FGM/C: Research to Help Girls and Women Thrive generates evidence to inform and influence investments, policies, and programmes for ending female genital mutilation/cutting in different contexts.

Evidence to End FGM/C is led by the Population Council, Nairobi in partnership with the Africa Coordinating Centre for the Abandonment of Female Genital Mutilation/Cutting (ACCAF), Kenya; the Global Research and Advocacy Group (GRAG), Senegal; Population Council, Nigeria; Population Council, Egypt; Population Council, Ethiopia; Mannion Daniels, Ltd. (MD); Population Reference Bureau (PRB); University of California, San Diego (Dr. Gerry Mackie); and University of Washington, Seattle (Prof. Bettina Shell-Duncan).



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The Africa Coordinating Centre for the Abandonment of Female Genital Mutilation/Cutting (ACCAF) was formally established in 2012 as a trans-disciplinary centre, both in approach and personnel. Its core function is to champion efforts and address the gaps in abandonment of FGM/C in the Africa region within one generation. The Centre is hosted by the [Department of Obstetrics and Gynaecology](#), at the University of Nairobi. Its overall aim is to strengthen capacity in the region for research, implementation of interventions, and monitoring of progress in accelerating efforts towards the abandonment of FGM/C, and improved care for women and children suffering negative consequences of the practise. The Centre coordinates research, training/capacity-building, dissemination of evidence-based practises, and strategies for abandonment of FGM, influencing policy, and behaviour change. <http://accfaf.org/>

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This is a working paper and represents research in progress. This paper represents the opinions of the authors and is the product of professional research. This paper has not been peer reviewed, and this version may be updated with additional analyses in subsequent publications. Contact: Agnes Meroka-Mutua, agi.meroka@gmail.com.

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List of Acronyms

AMREF	African Medical Research Foundation
CNLPE	Le Comité National de Lutte contre la Pratique de l'Excision (National Committee to Fight Against the Practice of Excision) (Burkina Faso)
CBO	Community-based organisations
DFID	Department for International Development
DHS	Demographic and Health Survey
FGD	Focus Group Discussion
FGM/C	Female Genital Mutilation/Cutting
FHI	Family Health International
KDHS	Kenya Demographic and Health Survey
KII	Key informant interviews
MICS	Multiple Indicator Cluster Survey
NACOSTI	National Council for Science, Technology and Innovation
NGO	Nongovernmental Organisation
ODK	Open Data Kit
UN	United Nations
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund

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Executive Summary

Background

Criminalisation is an important aspect of anti-FGM/C policies and programmes. In countries where FGM/C is practised, the enactment of a law prohibiting the practice is an important indicator of progress towards abandonment. Criminalisation is often seen as playing an important role in the declining prevalence of FGM/C. However, there is not much research on the link between the enactment of laws that prohibit and criminalise FGM/C and declining prevalence of the practice. The objectives of this study, therefore, were to assess the extent to which people obey the law on FGM/C; to investigate the reasons and causes that motivate people born into a tradition of FGM/C to obey or not to obey a law prohibiting FGM/C; and to establish the legal, policy, and programme responses, across varying contexts, that would most effectively reduce the practice of FGM/C. The study was conducted in Kenya, where FGM/C is criminalised under the 2001 Children's Act and the 2011 Prohibition of FGM Act.

Methods

This study used mixed methods, including a desk review of Kenya's anti-FGM/C laws; key informant interviews with community gatekeepers, community leaders, and government officials; focus group discussions with women aged 35 and older, women aged 18–34, men aged 35 and older, and men aged 18–34; and a quantitative survey of 1,200 respondents from six practising communities. The study was conducted in practising communities, with varying prevalence rates ranging from high and not declining, and high but declining, to high but recently declining. The study also included one non-practising community that neighbours practising communities for purposes of understanding cross-ethnic influences around the practice of FGM/C.

Results

The results of the study indicate that fear of punishment or the imposition of criminal sanctions is a major motivating factor for individuals to obey the law. However, fear of criminal sanctions might motivate individuals to practise FGM/C in secrecy rather than to obey the law. The study also found that conflicts between formal criminal law and religion or cultural custom can motivate people to disobey the law. Another factor that might cause individuals to disobey the law is internal failures within the formal law including poor enforcement, failure of law enforcement authorities to follow the law, and corruption. Further, the results of the study indicate that despite the enactment of a law prohibiting FGM/C, 13% of the studied population would still make the decision to cut women and girls in the future.

Discussion

While fear of criminal sanctions might motivate people to obey the law prohibiting FGM/C in Kenya, there exist factors that motivate people to disobey the law. These factors limit the effectiveness of criminal law. Thus, for example it was noted from the results of the study, that fear of criminal sanctions might push the practice of FGM/C underground devoid of the original ceremonies. Our findings suggest that it is necessary to find meaningful ways to address the inherent conflicts between the anti-FGM/C law in Kenya and religion and customs, which are also recognised as sources of law. Internal failures of the formal law system also need to be addressed to give the formal law system social legitimacy.

Implications for policy, programmes, and research

The findings from this study indicate that while fear of legal sanctions is a key factor in motivating people to obey the law, this in itself might not have the desired effect of having people comply with

the law. Fear of legal sanctions can also cause people to develop mechanisms that help them to evade the law. In the case of FGM/C in Kenya, people in practising communities have developed mechanisms to enable them to evade the law, including underreporting FGM/C and carrying out the practice in secret. In light of this key finding, this study makes the specific recommendation that Kenya's legal framework on the prohibition of FGM/C should be reviewed with the aim of making it more acceptable to practising communities, so that they can buy into the law and ultimately comply with it. Such a review of the law can be achieved in the following ways:

- Research should be conducted to obtain the views of key stakeholders in practising communities (these include community leaders, religious leaders, women's groups, youth groups and community-based organisations (CBOs) involved in the fight against FGM/C) on the issues within the legal framework prohibiting FGM/C in Kenya that require review and how such a review ought to be done;
- Research should be conducted to obtain the views of law enforcement officials (including police officers, prosecutors, and judicial officers) on the issues within Kenya's legal framework on the prohibition of FGM/C that make enforcement of the law difficult, and proposals as to how these might be addressed;
- Proposals from the findings of the research activities suggested above should be made to relevant stakeholders and, in particular, the law reform commission which is mandated to review all laws in Kenya and to initiate processes of law reform.
- Reform of Kenya's anti-FGM/C law should take a bottom-up approach, and at all key stages communities should be involved, and their views taken on board through targeted public-participation strategies.

In addition to this specific recommendation, we make the following general recommendations:

Programmatic implications

Interventions aimed at ensuring implementation of the law:

- Should not be done in silos but instead should target multiple groups, including government law enforcement officials, religious leaders, and community leaders. Creating a platform from where these different groups can have conversations and possibly learn from each other is key.
- Should be differentiated by gender and ethnicity.
- Should be tailor-made for specific communities—what works in one context might not necessarily work in another context.

Policy implications

- There is a need to use innovative approaches to address the internal failures of formal law so as to increase the legitimacy of the law and therefore inspire greater compliance with it by citizens.
- There is a need to design enforcement and implementation programmes in a more participatory manner by taking a bottom-up approach.
- There is a need to address the conflict between formal law on the one hand and religion and custom on the other hand to achieve social legitimacy within the formal criminal law.
- There is a need for innovative approaches to implement, monitor, and evaluate policies and laws aimed at promoting the abandonment of FGM/C as the practice may be hidden and underreported.

Research implications

- Our research suggests that FGM/C prevalence needs to be investigated using methods that use indirect means of questioning because of the tendency to underreport criminalised conduct that is rooted in traditions such as FGM/C.
- Further research is necessary into how social legitimacy might be achieved for the formal criminal law that prohibits FGM/C, in order to inform policy interventions aimed at ensuring the implementation and enforcement of the law.

Introduction

Background

FGM/C is prohibited by law or decree in almost all practising countries (see Figure 1), and in 13 of them it is a criminal violation (UNFPA-UNICEF Joint Programme 2015). In Kenya, the Children Act was passed in 2001, and it prohibited and criminalised FGM/C when performed on girls younger than the age of 18. Section 14 of the Children's Act prohibits the exposure of children to harmful cultural practices, including FGM/C, while Section 20 criminalises any actions that breach the rights of children provided for under sections 5-19 of the Act, the penalty being a jail term of up to one year or a fine of 50,000 Kenyan Shillings (~US\$500). In 2011, the Prohibition of Female Genital Mutilation (FGM) Act was passed, imposing a total prohibition of FGM/C, and criminalising the practice when performed on any woman, regardless of her age. The Prohibition of FGM Act also criminalises the procuring of FGM/C, and it creates other associated offences, such as aiding and abetting in the procuring of FGM/C; use of one's premises for FGM/C; being in possession of tools used for purposes of FGM/C; crossing the border out of Kenya to procure FGM/C in another country; failing to report to authorities when one is aware that FGM/C has been carried out; and the use of abusive or derogatory language to refer to a woman who has not undergone FGM/C or a man who marries a woman who has not undergone FGM/C. The Prohibition of FGM Act creates mandatory minimum sentences of three years imprisonment or a fine of 200,000 Kenyan Shillings for procuring FGM/C where the victim does not die and for all the associated offenses. Aggravated FGM/C, where the victim dies, attracts a sentence of life imprisonment. Because these are mandatory minimum sentences, it means the judicial officer has no discretion to impose a lighter sentence, but depending on the severity of the offence, the judicial officer may impose a stiffer sentence. In 2016, the Protection Against Domestic Violence Act was passed, recognising FGM/C or the threat of FGM/C as a form of domestic violence and further providing for issuance of protection orders for a victim of FGM/C or threatened FGM/C. There has been no analysis of how the Protection Against Domestic Violence Act is enforced, and whether any protection orders have been issued specifically with regard to cases of FGM/C.

With regard to the Prohibition of FGM Act, 28 Too Many reports that since the passing of the Act in 2011, as in 2014, there were 71 cases prosecuted in court, with only 16 ending with convictions, 18 ended in acquittals, while four were withdrawn, and 33 were still pending in court (28TooMany 2018, 6). The UNFPA-UNICEF Joint Programme on FGM/C reports that as at 2016, 75 cases were prosecuted, and only 10 resulted in convictions (UNFPA-UNICEF 2016, 47). Against this backdrop, a constitutional petition has been brought before the courts, challenging the constitutionality of the Act, to the extent that it interferes, inter alia, with the freedom of conscience, belief, and opinion set out under Article 32 of the Constitution and the right to participate in the cultural life of one's choice, set out under Article 44 of the Constitution (Petition 8 of 2017 available at <http://kenyalaw.org/caselaw/cases/view/154401>). The petitioner, who is a medical doctor, argues that to the extent that the Prohibition of FGM Act interferes with women's enjoyment of specific rights set out under the Bill of Rights, then the entire Act is unconstitutional and further that the Anti-FGM Board established under the Act is also unconstitutional. The matter is still in court.

Figure 1. Countries with nationally representative data on FGM/C in Africa and the Middle East, with laws against the practise

Benin (2003)	The Gambia (2015)	Senegal (1999)
Burkina Faso (1996)	Ghana (2007)*	Somalia (2012)
Central African Republic (1996)*	Guinea (2000)*	South Africa (2005)
Chad (2003)	Guinea Bissau (2011)	Sudan (some states, 2008-09)
Côte d'Ivoire (1998)	Iraq (Kurdistan region) (2011)	Togo (1998)
Djibouti (2009)*	Kenya (2011)*	Uganda (2010)
Egypt (2008)	Mauritania (2005)	United Republic of Tanzania (1998)
Eritrea (2007)	Niger (2003)	Yemen (2001)
Ethiopia (2004)	Nigeria (2015)	Zambia (2005)

*Note: Date indicates when an existing law was expanded.

Sources: Shell-Duncan, Bettina et al. 2013. "Legislating Change? Responses to Criminalizing Female Genital Cutting in Senegal." *Law & Society Review* 47(4): 803-35; Topping, Alexandra. 2015. "Nigeria's Female Genital Mutilation Ban Is Important Precedent, Say Campaigners." *The Guardian*. Retrieved August 5, 2015 (<http://www.theguardian.com/society/2015/may/29/outlawing-fgm-nigeria-hugely-important-precedent-say-campaigners>); and "FGM Ban begins a pivotal era for women and girls in the Gambia." United Nations Development Programme. Retrieved July 28, 2016 (<http://www.undp.org/content/undp/en/home/blog/2016/2/5/FGM-ban-begins-a-pivotal-era-for-women-and-girls-in-The-Gambia.html>).

Generally, and to date, criminalisation appears to have had limited effect. According to UNICEF (2013, 8):

“Debate on the efficacy of legislation banning FGM/C has been largely overtaken by a growing consensus that laws should be one of a set of interventions by governments to support a social movement towards its elimination. A UNICEF report on legislative reform and FGM/C notes that such reform needs to take into account the degree of social support for the practice. In settings where segments of practising populations agree that girls and women should not undergo FGM/C, institutional frameworks can play an important role in supporting social change aimed at ending the practice...However, in communities with broad support for FGM/C, the challenge is to develop legislative reform strategies that complement efforts in the social sphere and contribute to collective abandonment of the practice.”

Laws have some positive effects, which probably depend on the way they are applied, and moreso where, for one reason or another, there is more social support for it.

Why, therefore, is criminalisation so often suggested as a remedy? First, FGM/C involves caregivers acting on children to irreversibly reduce a valued human capacity (sexual functioning) in the absence of meaningful consent (Nussbaum 1999). We know that many people value sexual experience, but the worry about FGM/C is not that women should pursue such experience but rather that they should retain a free choice upon adulthood to do so or not (Nussbaum 1999). It is difficult for some people to understand or accept that those who practise FGM/C intend to help their daughters rather than to harm them. Second, many in the Western world assume the doctrine of legal centralism: that in most places most people obey most laws and, hence, that the law is usually the best way to bring about social change and to reduce social harms. This belief is not always true. The law is often not obeyed around the world, and law is often not the best way to bring about beneficial social change (Griffiths 1986). Third, people tend to think of themselves as motivated intrinsically, such as by moral considerations, and of others as having extrinsic

motivation such as by the threat of social pressure or legal punishment (summarised with respect to motivations to obey the law by Feldman (2011, 29–36). For example, in Colombia, the nongovernmental organisation (NGO), Corpovisionarios, conducts a standard survey intended to measure the moral, social, and legal reasons people have for being good citizens and complying with just law. The modal responses in Colombia are that “I obey the law for moral reasons, but *others* obey the law to avoid legal penalties” (Guillot 2012). Guillot suggests that people might mistakenly demand that the state apply harsh legal penalties, when, in fact, moral and social appeals would be more effective in the community. Similarly, outsiders’ beliefs that those who do FGM/C would be more deterred by threats of punishment than by moral deliberations and social mobilisations could be mistaken.

The aim of this study therefore is to understand how better to use criminalisation to promote the abandonment of FGM/C, because a common policy response to FGM/C is to call for enactment and enforcement of a criminal law to prohibit the practice. The study is unique in several ways: first, it highlights a variety of relevant literature on the question of compliance with law regulating social practices in lower-income countries; secondly, it proceeds to directly find out from citizens in Kenya why they obey or disobey laws; and it studies the legal effect locally, by means of list experiments designed to reduce response bias. It provides an initial assessment of the effect of legal salience on the self-report data strongly relied upon for policy formation; it adds new information on the degree of compliance by methods that are independent of population and health surveys; it investigates why people comply or not to better design legal implementation.

Theoretical underpinnings

Why people obey the law

To explain variability in the effectiveness of criminal law, we first need to understand and investigate the reasons people have for obeying it. People are motivated to obey the law by these reasons (synthesised from Friedman 2016, Hart 1961, Kahan 1997, Mackie 2017, McAdams 2015, Tyler 1990):

- Moral:
 - Personal agreement: following specific laws, believing they are morally right
 - Legitimacy: believing that one owes general obedience to the law
- Procedural: believing that authorities apply the law fairly to all
- Social:
 - Descriptive norm: Obeying/disobeying because others obey/disobey (including social proof and coordination)
 - Injunctive norm: Shame among peers for disobeying the law, or pride for obeying
- Punitive:
 - Fear of government punishment
 - Or, more rarely, hope of government reward
- Religious
 - We hypothesise that religious motivations take the form of moral agreement, or social approval by the religious community, or fear of punishment by the religious community.

It is also useful to distinguish between obedience of specific laws, and general obedience to the law. Obedience to many specific laws converges on general obedience, and a disposition to general obedience results in obedience to many specific laws. In all societies, there are specific laws that most people do not obey; even in societies of high general obedience. For example, millions of youth pirate and exchange music files in violation of copyright law.

Why might criminalisation be ineffective?

To understand legal obedience and disobedience, we need to appreciate how the operation of criminal law varies in different political and social contexts. There are five main reasons why effectiveness of criminalisation of FGM/C may be limited in practising countries.

First, because of the colonial legacy of underdevelopment, states in sub-Saharan Africa tend to lack the state capacity to strongly enforce laws that conflict with cultural norms, such as laws that prohibit FGM/C (Tamanaha 2008). Kaufmann, Kraay, and Mastruzzi (2011) offer a short definition: "Rule of law captures perceptions of the extent to which agents have confidence in, and abide by, the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence." For FGM/C, the state's role in fairly and effectively enacting, applying, and enforcing the law is especially important. Weakness of state capacity diminishes two of the moral reasons for complying with the law: legitimacy of the state's commands and its procedural fairness in enforcing them.

Second, in high-income countries, societies tend towards legal centralism and in low- and middle-income countries, particularly in sub-Saharan Africa, they tend to legal pluralism (multiple legal authorities). In colonial or postcolonial settings, it is quite usual for there to be formal law promulgated by the colonial power or its state successor alongside customary law and/or Islamic law for each of the many groups in that state.

What makes this pluralism noteworthy is not merely the fact that there are multiple uncoordinated, coexisting or overlapping bodies of law, but that there is diversity amongst them. They may make competing claims of authority; they may impose conflicting demands or norms; they may have different styles and orientations. This potential conflict can generate uncertainty or jeopardy for individuals and groups in society, who cannot be sure in advance which legal regime will be applied to their situation. (Tamanaha 2008, 375)

As the European states centralised power and built state capacity, formal law over time came to displace previous reliance on custom. As those same states pursued imperial conquest, they imposed an alien formal law on their colonies, often relying on indirect rule that recognised the customary laws of the indigenous peoples. The dual legalism naturally persisted after colonies gained independence. The United Kingdom's Department for International Development (DFID) estimates that in many low- and middle-income countries, 80% of cases are settled within traditional or customary legal systems, which Tamanaha, Sage, and Woolcock (2012) call an understatement. De Herdt and de Sardan (2015) collected detailed empirical investigations of "real governance and practical norms in sub-Saharan Africa." They portray how people navigate through multiple authorities, for example, forest inspectors balancing among bureaucratic, audit, professional, political, ethnic, patron–client, colleague, and other accountabilities (Blundo 2015). The setting is not a lack of authority, but multiple, conflicting authorities. Similarly, FGM/C as a traditional practice may be supported under custom but outlawed under formal state law. People may opt to obey custom, which supports FGM/C, and disobey the formal law which prohibits FGM/C. Change agents should recognise the fact of legal pluralism where it exists. Customary law can harm women's rights and interests, as can formal law. Harmonisation of authorities on morally justified ends is the appropriate response.

According to Sage and Woolcock (2012), development practitioners are presently coming to terms with legal pluralism as a development issue. Another edited volume, by the Harvard Human Rights Program, *The International Rule of Law Movement: A Crisis of Legitimacy and the Way Forward* (Marshall 2014) describes a general failure of the rule-of-law programmes in post-conflict and fragile states; urges more attention to conditions of legal pluralism, and strong incorporation of moral, social, and political considerations in programme design. Several recent volumes consider the realisation of human rights in contexts of legal pluralism (Corradi, Brems, and Goodale 2017; Provost and Sheppard 2013), and gender justice and legal pluralism (Sieder and McNeish 2013, Kerrigan et al. 2012).

Third, the threat of punishment does not necessitate compliance. Indeed, a longstanding research programme in criminology began from the premise that, “Legal punishment either reduces, increases, or has no effect on future crimes, depending on the type of offenders, offenses, social settings, and levels of analysis” (Sherman 1993). A similar maxim applies in the international arena. Political scientists have studied whether countries’ ratification of human rights treaties improve respect for human rights. The results are dismaying. For example, Neumayer (2005) found that among countries that ratify human rights treaties, improvements in human rights tended to be among countries that were already democratic or had more NGOs in their society. In autocratic regimes with weak civil society, ratification had no effect on human rights compliance or even made things worse. Hathaway (2007), studying 160 countries over several decades, found that more authoritarian states are not any less likely to ratify human rights treaties than democratic states, because authoritarian states do not expect to comply with the human rights treaties they ratify. More democratic states are more reluctant to ratify human rights treaties if they have a poor rights record, because ratification would compel them to comply with treaty requirements. Hafner-Burton, Victor, and Lupu (2012, 80), in a nuanced summary review of the literature observes that, “there is a troubling and recurrent finding that participation in some treaties correlates with worse human rights behaviour.” Given such findings, it is not clear whether accumulating enactments of criminal laws of FGM/C across practising countries indicates or predicts significant progress in abandonment of the practice.

Shell-Duncan et al. (2012, 1), in their study of criminalisation of FGM/C in Senegal found that,

“Among supporters of FGC [female genital cutting], legal norms ran counter to social norms, and did little to deter the practice, and in some instances incited reactance or drove the practice underground. Conversely, where FGC was being contested, legislation served to strengthen the stance of those contemplating or favouring abandonment. We conclude that legislation can complement other reform strategies by creating an ‘enabling environment’ that supports those who have or wish to abandon FGC.”

Ethiopia has a strong criminal law against FGM/C that is widely publicised. A Young Lives ethnographic study (Boyden, Pankhurst, and Tafere 2013), constructed from interviews conducted in 2007, 2008, and 2011 with 25 youth from five communities as well as their peers, caregivers, and community representatives, presents evidence that among many of their respondents, the practice of FGM/C had gone underground and possibly become stronger in reaction to the imposition of the law. Girls who had opposed the practice changed as they approached the age of marriage because of peer pressure from older girls, and some girls demanded and organised together for FGM/C on their own, without their parents’ knowledge, which also shields parents from prosecution. The authors conclude, “that interventions to promote changes in practices that do not consider the underlying logics and potential unintended consequences for those affected are unlikely to achieve their aims and may engender resistance and result in adverse outcomes” (p. 42).

Fourth, empirical literature on criminal deterrence repeatedly shows that moral and social reasons contribute strongly to compliance. Tyler’s (1990, 45) pioneering Chicago study on legal obedience showed that self-reported legal compliance is correlated with morality ($r=0.42$), peer disapproval (0.34), and certainty of punishment (0.28). A summary review of empirical studies (Nagin and Pogarsky 2001, 869) states that, “a belief that illicit conduct is wrong, and the fear of disapproval, embarrassment or social stigma discourages offending behaviour.” Further, several studies investigating the relative strength of sanction forms find “the conforming influence of extra-legal [moral and social] sanctions to be far greater than that from legal sanctions” (Nagin and Pogarsky 2001, 869). A meta-analysis of empirical studies by Pratt et al. (2006) concludes that the effect sizes of variables having to do with the certainty and severity of legal punishment are “modest to negligible” (p. 383), and that variables related to the threat of force of extra-legal sanctions such as moral conscience or social disapproval are “among the most robust predictors of deterrence” (p. 385). A review of deterrence theory by a leading criminologist (Paternoster 2010) concludes, in part, that:

The empirical evidence leads to the conclusion that there is a marginal deterrent effect for legal sanctions, but...it is very difficult to state with any precision how strong a deterrent effect the criminal justice system provides.... There is greater confidence that non-legal factors are more effective in securing compliance than legal threats. (p. 765)

The Presidential Address of criminological theorist Agnew (2014) to the American Society of Criminology reviews literature on a variety of moral and social motivations and their likely contributions to legal compliance. Additionally, laws themselves are held in place not only by moral and penal motives but, crucially, by *social norms of general or specific legal obedience*—the approval of relevant others for compliance and their disapproval for defiance, and simply whether or not others obey. In the absence of a social norm of legal obedience, popular compliance would be low. Sometimes the lack of the social norm may be the product of popular opposition or indifference to the content of a particular law; sometimes general legal disobedience can exist among a minority of “legal nihilists” who pride themselves on defiance. Also, absence of a social norm of obedience to formal law may be the product of a social norm of obedience to conflicting customary law.

One response to these considerations is Bogotá mayor Antanas Mockus’s doctrine, and civic practice, of the harmonisation of moral, social, and legal norms (Table 1) (Mackie 2017, Mockus 2002). Thus, the use of legal regulation that provides for the prohibition of FGM/C may not, in and of itself, act to deter people from practising FGM/C. Ideally, there ought to be a social norm on the obedience of the law that prohibits FGM/C. This is so, because there already exists a social norm that supports the practice of FGM/C. Enacting a law that prohibits FGM/C does not automatically lead to the formation of a social norm that requires obedience to that law. Policy should rely first on moral regulation, next on social regulation and, only as a last resort on legal regulation, and all three systems of regulation should be in harmony with one another. In contexts of legal pluralism, Mockus’s idea should be supplemented to include harmonisation of formal and customary laws.

Table 1. Harmonisation of three regulatory systems.

	Legal norms	Moral norms	Social norms
Positive reasons	Respect for the law	Good conscience	Esteem acceptance
Negative reasons	Legal penalties	Bad conscience	Disesteem rejection
A typical emotion in a violator	Fear	Guilt	Shame

Source: Adapted by Mackie (2017) from Mockus (2002)

Fifth, the criminal law is designed to regulate harmful deviance at the margins of social consensus (Mackie 2017). Dowry murder, for example, is deviation from an accepted norm, its harmful consequences are intended, a few specific individuals are culpable, and the remedy is backward-looking: punishment of guilty individuals. Dowry itself can also be harmful: it can incentivise neglect of the health and education of girls, even leading to female feticide and infanticide in contexts where the daughter's family must pay a groom's family to take the daughter and because returns from the family's investment in the daughter accrue to the groom's family. However, dowry is compliance with an accepted norm; its harmful consequences are indirect and often unintended; there is a shared responsibility among many for its continuation, and the remedy is forward-looking: coordinated abandonment.

Dowry is criminalised, without effect, in India (Mackie 2017). Why? Its prevalence in rural India from 1960 to 1995 was about 93%. The law targets a large section of the population and would require sanctions to be applied against this very large section of the population—a near impossibility. Thus, law enforcers do not enforce. Police and prosecutors have limited resources and enforcement discretion: they will pursue crimes that enforcers and the local community most want to be punished. Judges and juries are reluctant to punish when crimes they think are worse are punished less or not at all. If there is outside pressure, the law will be enforced against the weakest sectors in society, and unfair enforcement will reduce general legal obedience in that population. Citizens do not obey because they expect the law to approximate popular views, and the general and particular legitimacy of the law is undermined. And why obey, if others do not?

Aldashev et al. (2012) model a regime with formal law and customary law where pro-poor legal reforms cause the conflicting custom to shift towards the change intended by the legislator. A moderate law can increase the bargaining power of a local person governed by customary law who can credibly threaten to move a dispute to the formal, legal arena, thereby obtaining a local settlement more in her favour. The law acts as a magnet moving custom in its direction. An extreme law, that most expect not to be enforceable, however, has no such magnet effect. The model is illustrated by empirical research in Ghana: a more moderate law bestowing inheritance rights on women and children was more effective than the previous extreme law and drew customary practice more towards the content of the moderate law. Elsewhere, Platteau (2010) illustrates the model with further examples from sub-Saharan Africa, both of extreme laws that lack effect and more moderate laws that do have the magnet effect their model predicts. Gabon and Senegal, for example, former French colonies, banned the practice of polygyny, with little effect. Each shifted to a more moderate—and effective—regime of monogamy or polygyny as a choice in the initial marriage contract.

An appropriate and important approach to understanding the lack of compliance with laws such as FGM/C is at the level of international law, state compliance with international law, and a state's ability and will to enforce the law. Middelburg (2016) is the exemplary work in this line, concluding with a case study of the law in Senegal. We shall not focus on this level of causation, for two reasons. First, existing investigations and explanations of the lack of compliance focus on state compliance with international law, but there have been no studies as to why citizens would obey or disobey FGM/C law. We want to avoid duplication of past work and produce a novel study that opens a new line of work that others can take further.

Second, where states comply with international law, and in states' ability and will to enforce the law, such as in the United Kingdom or France, it is not clear how effective prohibition of FGM/C has been. If arrest, prosecution, conviction, and punishment for violation cause deterrence, there have been few such actions (Berer 2015) in these countries. In the United Kingdom, there has only been one successful prosecution of an FGM/C case, which happened in 2019, yet the law criminalising FGM/C in the UK has been in force since 1985 (Feikert-Ahalt 2019). Questions to

investigate in these most favourable conditions include whether the nature of FGM/C is such that it is difficult to identify violations, or whether, even in these countries, the nature of FGM/C is such to make personnel in the criminal justice system reluctant to respond to the problem with penal methods.

Objectives and research questions

To address the gaps in our knowledge of why people obey or disobey the law on FGM/C, we conducted a study in Kenya (as part of a larger multi-country study on FGM/C and legal obedience). The aims of the study were to:

- measure the extent to which people obey the law on FGM/C.
- investigate the reasons and causes that motivate people born into a tradition of FGM/C to obey or not to obey a law prohibiting FGM/C.
 - To investigate the moral, social, and punitive reasons that influence people to obey rules of conduct, the law in general, and, in particular, FGM/C law.
 - To investigate the reasons why people obey laws in general, and the FGM/C law in particular, by conducting local qualitative and quantitative studies.
 - To investigate how the content of the law, the design of its implementation, and the actual administration of its implementation affects compliance with FGM/C law.
- establish the legal, policy, and programme responses, across varying contexts, that would most effectively reduce the practice of FGM/C.

Research questions

- To what extent do people obey laws prohibiting them to practise FGM/C?
- Among people born into a tradition of FGM/C, what are the reasons and causes that motivate them to obey or not obey a law prohibiting FGM/C?
 - What are the moral, social, and punitive reasons that influence people to obey rules of conduct, the law in general, and in particular FGM/C law?
 - What other reasons influence the choice to cut or not?
 - How does the design and administration of legal implementation affect people's choice to obey the law?
- Given the findings, what legal, policy, and programme responses, across varying contexts, would most effectively reduce the practice of FGM/C?

Methods

Study design

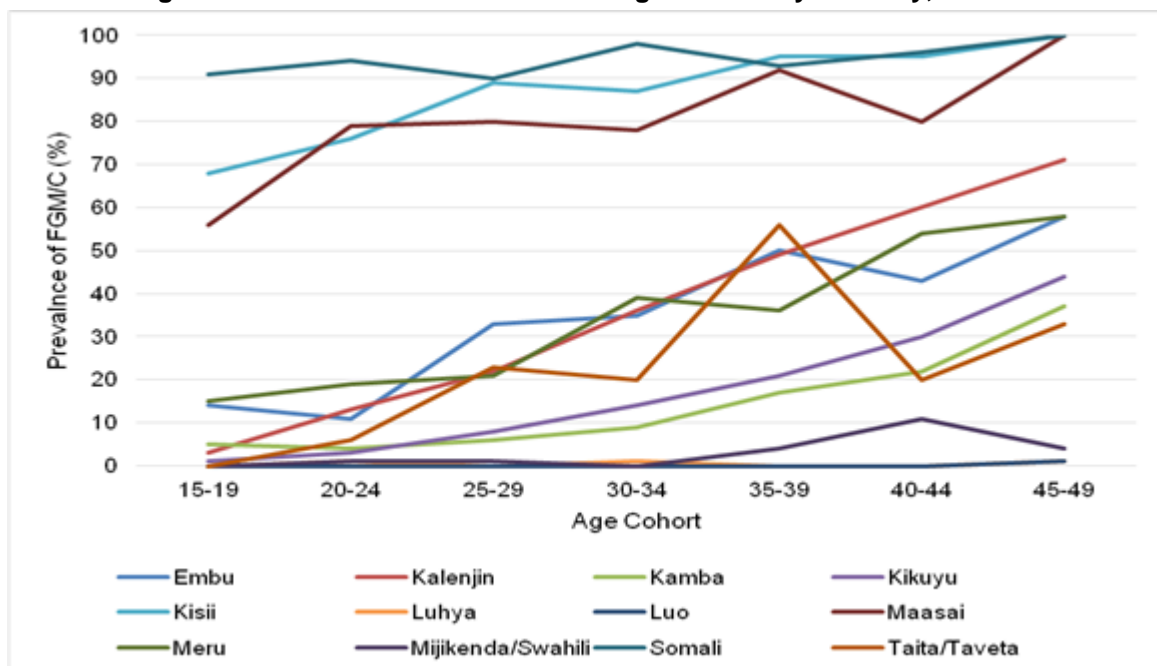
We conducted an exploratory mixed-methods study. First, we conducted desk reviews of the enactment and implementation of anti-FGM/C law in Kenya. Second, we analysed existing national datasets to assess changes in reported FGM/C prevalence in the country during different time periods when there existed no law, a moderate law, and a strong law in the country. This analysis helped in formulating an initial assessment of the relationship between the enactment of a law prohibiting FGM/C and reported FGM/C prevalence. Third, to assess the impact of the design and administration of legal implementation on the choice to obey the law, we conducted key informant interviews (KIIs) with community gatekeepers, government workers such as health officials and teachers, and law enforcement officials, such as magistrates. We

also conducted focus group discussions (FGDs) with adult men and women from selected communities to assess the reasons that influence the choice to cut or not to cut. Finally, in line with the theoretical framework, we designed and administered a quantitative survey tool that was informed by the qualitative data to investigate the moral, social, punitive and religious motivations people have for obeying the law.

Study site

Kenya has a population of 48 million; in 2014 the prevalence of FGM/C among women aged 15–49 years was 21% (KNBS and ICF Macro 2015). Unlike most practising countries, FGM/C in Kenya has been in steady decline since the 1960s, according to inferences from DHS data (Engelsma, Mackie, and Merrell 2020). President Jomo Kenyatta had made an issue of the cultural value of FGM/C for the Kikuyu during the independence struggle and the government did not act on the issue in his era (today, incidence of FGM/C among the Kikuyu is near zero [see Figure 2, which shows that the prevalence of FGM/C among Kikuyu girls aged 15–19 years is nearly zero]). President Daniel arap Moi issued two decrees banning the practice and forbidding it in government-controlled health facilities. A National Plan of Action was launched in 1999, followed in 2001 by a criminal law that prohibited FGM/C for girls younger than 18 years. Section 14 of that Act declared that “no person shall subject a child to female circumcision,” and Section 20 imposed criminal penalties on any person who wilfully or by culpable negligence violates the child’s right not to be cut. Reportedly, there was little enforcement and little effect. In 2011, a stronger law was enacted, applying to all ages, and with stronger penalties. It also imposed penalties on those who aid, abet, counsel, or procure another person to perform FGM/C, or anyone who fails to report an act of cutting to law enforcement. Interestingly, it penalises the stigmatisation of women who have not undergone FGM/C, in order to undermine it as a social norm. Kenya has a strong coordinating body, a strong national action plan, a state budget for FGM/C, and has built response-capacity within the criminal justice system and among community leaders. A richer account of the law in Kenya can be found in Shell-Duncan, Gathara, and Moore (2017, 9–11).

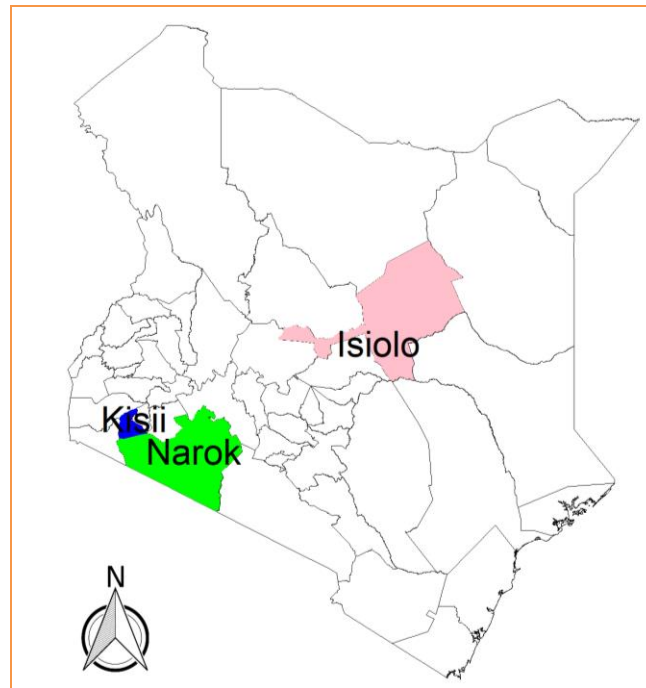
Figure 2. Prevalence of FGM/C across age cohorts by ethnicity, KDHS 2014



Source: Adapted from Shell-Duncan, Gathara, and Moore (2017)

The study was conducted in southwest and northeast Kenya (Figure 3). In selecting the sites, we primarily considered the communities living in the chosen sites, the prevalence of FGM/C among these communities, as well as security concerns. Nationally, FGM/C is prevalent among the Kisii, the Maasai, and the Somali ethnic groups (Figure 2) and we sought to include participants from these communities.

Figure 3. Map of Kenya's counties showing study sites



In southwestern Kenya, FGM/C prevalence is high and barely declining in Kisii County. It is high but recently declining in Narok County, which forms the southern boundary of Kisii County, home mostly to people from the Kisii ethnic group. Narok is home primarily to the Maasai; the Kisii; the Kipsigis, who are abandoning FGM/C; the Kikuyu, who have mostly abandoned the practise; and two noncutting groups. Qualitative and quantitative data-gathering activities were conducted in Ogembo subcounty in Kisii County; Kilgoris in Trans Mara West subcounty in Narok County and Emurua Dikiir in Trans Mara East sub-county, also in Narok County.

The prevalence of FGM/C is high in northeast Kenya because of the large population of Somalis among whom the practise is nearly universal. Because of security concerns in much of the northeast, the study was conducted in Isiolo County where there are many cutting groups including the Somali, Borana and the Samburu. To the northwest of Isiolo County lies Samburu County, an area of recent decline of FGM/C and home to cutting, abandoning, and noncutting groups. To the west of Isiolo is Laikipia County, an area of more prolonged decline, and home to a variety of cutting, abandoning, and non-cutting groups, among them, the Somali, the Samburu, the Meru, and the Kikuyu. This contiguous area lies to the north of Mount Kenya, and a subset of it was one of our study sites. In this study site, the qualitative data-gathering activities were conducted in Isiolo county in the following villages: Ngaremara village, mainly inhabited by the Turkana community; Kipsing village mainly inhabited by the Samburu community; and Burat village, mainly inhabited by the Somali community. The quantitative data gathering was conducted in Bula Pesa which is inhabited by the Somali; Burat which is inhabited by the Borana; and Kipsing which is inhabited by the Samburu.

Participants

In the qualitative study, we interviewed men and women from the following ethnic groups: Kisii, Maasai, Kipsigis, Somali, Samburu, and Turkana. The Turkana are a non-practising community who neighbour practising communities. Their inclusion was important for the purpose of understanding cross-ethnic influences. In the quantitative study, we only included men and women from communities that traditionally practise FGM/C so the non-practising Turkana were replaced by the Borana, who are a practising community.

Key informants were purposively selected based on their knowledge and experiences with compliance with moral, social, and legal rules in the community. To be eligible to participate in the KII, participants must reside in the study sites and they had to fall within any of the following categories: community gatekeepers, religious leaders, law enforcement officials, health workers, or teachers. In total, 60 key informant interviews were conducted, with 30 from each of our study sites. All key informants were aged 18 years or older.

Four FGDs were held in each community that was studied, giving us a total of 24 FGDs. In each community we held separate discussions with a group of younger men (aged 18–34 years), a group of older men (35 years and older), a group of younger women (aged 18–34 years), and a group of older women (35 years and older). Each focus group consisted of between 6–8 persons.

A total of 1200 participants (50% male) were surveyed. Socio-demographic characteristics of the survey respondents are summarised in Table 2. A total of six ethnic communities were targeted for interviews, with 203 respondents from Borana, 202 from Kipsigis, 194 from Kisii, 198 from Maasai, 198 from Samburu, and 197 from Somali communities. There were eight other respondents who were sampled and interviewed but belonged to other ethnicities. They were interviewed because they had lived in those communities long enough to adapt and understood the cultures and traditions of the people they were living among. Some were married to someone from one of the targeted groups. Data from these participants are not included in analyses looking at associations by ethnicity (n=1192).

Table 2. Demographic characteristics of survey respondents (N=1200)

	Female N (%)	Male N (%)	Total N (%)
Age (median IQR)	33 (25, 45)	37 (28, 54)	35 (26, 50)
Ethnicity			
Borana	103 (17.2)	100 (16.7)	203 (16.9)
Kipsigis	102 (17.0)	100 (16.7)	202 (16.8)
Kisii	95 (15.8)	99 (16.5)	194 (16.2)
Maasai	98 (16.3)	100 (16.7)	198 (16.5)
Samburu	98 (16.3)	100 (16.7)	198 (16.5)
Somali	97 (16.2)	100 (16.7)	197 (16.4)
Other	7 (1.2)	1 (0.2)	8 (0.7)
Marital status			
Never married	42 (7.0)	120 (20.0)	162 (13.5)
Ever married	558 (93.0)	480 (80.0)	1038 (86.5)
Lives in same household with own parents	54 (9.0)	141 (23.5)	195 (16.3)
Lives in same household with spouse's parents	66 (11.8)	38 (7.9)	104 (10.2)
Who makes decisions about money?			
You	100 (16.7)	356 (59.3)	456 (38.0)
Your spouse	186 (31.0)	11 (1.8)	197 (16.4)

	Female N (%)	Male N (%)	Total N (%)
You and your spouse equally	260 (43.3)	107 (17.8)	367 (30.6)
Your parents	39 (6.5)	101 (16.8)	140 (11.7)
Your spouse's parents	4 (0.7)	1 (0.2)	5 (0.4)
Someone else	11 (1.8)	24 (4.0)	35 (2.9)
Number of children			
None	47 (7.8)	128 (21.3)	175 (14.6)
1–3	219 (36.5)	178 (29.7)	397 (33.1)
4–8	288 (48.0)	247 (41.2)	535 (44.6)
9 or more	46 (7.7)	46 (7.7)	92 (7.7)
Don't Know	0 (0.0)	1 (0.2)	1 (0.1)
Duration of stay in the community			
< 1 year	15 (2.5)	6 (1.0)	21 (1.8)
1–5 years	62 (10.3)	23 (3.8)	85 (7.1)
> 5 years	266 (44.3)	145 (24.2)	411 (34.3)
Since birth	257 (42.8)	426 (71.0)	683 (56.9)
Religion			
Islam	200 (33.3)	201 (33.5)	401 (33.4)
Christianity	389 (64.8)	319 (53.2)	708 (59.0)
Traditional	0 (0.0)	12 (2.0)	12 (1.0)
Don't practise any religion	11 (1.8)	62 (10.3)	73 (6.1)
Don't know	0 (0.0)	6 (1.0)	6 (0.5)

The median age of the female respondents was 33 (IQR: 25–45) and male 37 (IQR: 28–54). Ninety-three percent and 80% of the female and male respondents respectively were married; and among those who were married 9% of females and 24% of males lived in the same house with their parents. A greater proportion of men (59%) compared to women (17%) reported that they made decisions themselves. Seventy-one percent of the male and 43% of the female respondents had lived in the village where they were interviewed since they were born (they had not moved in from another place) whereas 44% of the female respondents had lived there for at least 5 years.

Instruments

Key informant interview (KII) guide

We used a semi-structured guide for the KIIs to allow participants to provide as much information as they felt was relevant. The guide included hypothetical scenarios or vignettes, given the sensitivity of the subject. One scenario on early and forced marriage was included to allow us to draw some comparisons between how people generally respond to FGM/C and a similar activity. To ensure that the guide was appropriate for use in different cultural contexts, we reviewed the guide with research assistants who were recruited from the study communities. The guide was pre-tested in the field prior to data collection.

Focus group discussion (FGD) guide

We used a semi-structured guide for the FGDs. The guide included vignettes to probe particularly sensitive topics. It also included scenarios to allow us to draw comparisons between how individuals and communities respond to FGM/C and other similar (early marriage) and dissimilar activities (petty theft and a fight between two women in the marketplace). For each

community studied, we worked with research assistants from the targeted communities to tailor the vignettes to ensure local relevance. Thus, for instance, in the scenario on petty theft we asked about the theft of crops such as bananas for the Kisii, while for pastoral communities, we asked about the theft of small animals such as kids or lambs. Further, for the female FGDs, the names used in the stories were female names, and male names used for the male FGDs. In all substantive aspects, the FGD guide remained standard across all the communities. The guide was pre-tested in the field prior to data collection.

Quantitative survey questionnaire

The quantitative survey questionnaire was developed to include questions that would assess the motivations people have for obeying the law. General questions about law were included, and these were followed by questions that were specific to FGM/C law. The questionnaire also contained activities that could be used to draw comparisons between FGM/C and other activities that are also criminalised. The questionnaire thus included questions on riding a motorbike without a helmet and paying a bribe to the police. Vignettes were also included in the questionnaire, to allow for further comparisons between people's responses to anti-FGM/C law on the one hand and law that criminalises riding a motorbike without a helmet and the paying of bribes to police.

To estimate the proportion of people who planned to continue the practice of FGM/C, we embedded a list experiment (unmatched count technique) in the quantitative survey questionnaire. The unmatched count technique (Dalton, Wimbush, and Daily 1994) is designed in a manner such that it is clear to the respondent that no one can detect whether s/he committed the sensitive act being investigated. Unmatched count requires two large random samples of the population. Respondents in the control sample are presented, for example, with four benign or neutral activities and asked whether they have engaged in them anytime in some fixed period. They are to count the number of activities they did at least once and report the total, but to say nothing more. Respondents in the treatment sample are presented with those first four activities plus, say, cutting of girls by the family, and asked to count the number of activities they did at least once and report the total. The two random samples are compared and the number of people doing FGM/C can be deduced by subtracting the number of yes answers in the control condition from the number of yes answers in the treatment condition, and there is no way that anyone can identify any individual who performed the sensitive action. Unmatched count consistently yields higher reports of sensitive activity than self-report (Gibson et al. 2018). In this study, from a sample of 1200, the sample was randomly divided in such a way that 600 respondents received the five items (without the sensitive question) and the other sample received six items (with an extra sensitive item). Randomisation on who received the control items and who received the treatment items was done prior to data collection to reduce selection bias. Those who were randomised in the control group were asked to give the number of activities they planned to carry out in future from the five activities read to them, while those in the treatment group were asked the same but from the six activities read to them, which included the sensitive activity: *circumcise my daughter or granddaughter*. The list of activities read for the individuals randomly assigned to the control group include: *visiting a sick relative, riding on a motorbike without a helmet, paying the police a bribe to avoid punishment, accuse a family member of witchcraft, celebrating a religious feast*. We estimated the proportion of people intending to practise FGM/C by computing the difference in the total counts between the treatment group and the control group, expressed as a fraction of the total number of individuals in the treatment group.

To better understand the impact of custom on criminal law in the context of legal plurality, we also embedded an endorsement experiment within the survey questionnaire to help determine

the institutions that generally tend to influence individuals within communities in making choices concerning the abandonment of FGM/C. Endorsement is an experiment embedded in a larger survey instrument where the sample is randomly divided into smaller subsamples who are asked the same question but with an altered entity supporting or presenting the programme to assess how responses differ. The key assumption in endorsement experiments is that the larger survey sample is large enough so that subsamples are representative of the population. To illustrate with one application in Malawi, a persuasive message on delay of early female marriage was presented either on its own, by a respected female authority, a respected male authority, or a parliamentarian (Muriaas et al. 2017). Respondents' approval of the statement from the female authority was most effective, and from either of the other two authorities' approval was less than the control presentation. We applied the endorsement experiment to assess the persuasiveness of government, traditional, and religious institutions in promoting abandonment. Specifically, the larger sample of 1200 was randomly subdivided into four subsamples; control, traditional, government, and religious. The control group was asked *"As you may be aware, recently a new programme was started to educate parents about female genital mutilation/cutting and to convince them not to cut their daughters. Do you support or oppose this programme?"*. The remaining groups were told that the programme is supported by the community elders (traditional sub-sample), the Kenyan government (government subsample), and religious leaders (religious group).

Procedures

Entry into the community was facilitated by the County Commissioners and local area chiefs in the study areas. The local-area chiefs also worked with the research team to identify potential participants for the KIIs and FGDs. The research assistants then followed up with potential participants for the KIIs to set dates and times for the interviews. All interviews were conducted between 8:00am–6:00pm, either in the informant's place of work or in any other location within the study site as per the informant's preference. Focus group discussions were held in venues identified with the help of field guides, between 8:00am–6:00pm. We avoided the market days as well as religious days, to ensure that we had the required number of participants for the FGDs. All interviews and discussions were audio recorded with written permission from the participants.

We selected quantitative survey participants using systematic random sampling, where villages were systematically selected, but individuals were randomly selected. The research assistants, working in teams of four, used two field guides to gain access into the villages inhabited by the target communities. Once in the villages, the research assistants worked in pairs to select and interview participants. In each homestead, which was a group of houses clustered together and inhabited mainly by members of the same extended family, research assistants visited every household and used programmed tablets to randomly select one male participant and one female participant, both older than 18 years, for the interview. The interviews in each household were done at the same time, but separately, before moving on to the next household. Quantitative data were collected electronically using Open Data Kit (ODK) on tablets running the Android operating system and installed with ODK Collect. The survey instrument was programmed onto tablets and field teams trained on how to use it to administer the questionnaire. A one-day pilot field test was done to test the tool and logistics of community entry.

All the research assistants were recruited from the local communities where they worked, were conversant with the local customs and language, and all had previous research experience. They were all duly trained on the study procedures and on research ethics prior to data collection.

Data analysis

Qualitative data audio recordings were transcribed in order to allow for their analysis. A coding framework was developed using key themes derived from the KII and FGD guides. These key themes are set out under the subheadings in the results section of this report. Using this thematic framework, a code book was then created on NVivo 12 software. The transcripts were then imported onto NVivo and the responses were coded to the relevant nodes by two qualitative data analysts.

Quantitative data were analysed in STATA version 14.1, and results presented in tables and graphs. Categorical variables were analysed through descriptive frequency distributions and two-way cross tabulations. In cases where expected value in the cell was less than 5, we used Fisher's Exact tests. Where necessary, both the numbers and proportions are presented, otherwise only percentages are presented. Numerically collected variables were summarised using median as a measure of central tendency and interquartile range (IQR) as a measure of variability for rather skewed variables, or mean and standard deviation as a measure of central tendency and variability, respectively, for approximately normally distributed variables. As is standard practice with experiments, a two-sample t-test was done to compare the means of the control and treatment groups to determine whether they are statistically different at a 5% level of statistical significance. Prevalence was estimated by subtracting the total number of activities given by the respondents in the control group from the total number of activities given by the respondents in the treatment group and expressed as a fraction of the number of individuals in the treatment group.

Ethical considerations

Ethics approval was received from the Population Council Institutional Review Board and from AMREF Health Africa. Approval to conduct the study was also received from the National Commission for Science, Technology and Innovation (NACOSTI). In Kisii and Narok County, additional approvals were obtained from the County Director of Education. County Commissioners in Isiolo, Kisii, and Narok, as well as the Deputy County Commissioners in Trans Mara West and Trans Mara East subcounties were informed about the study.

Research assistants were trained on ethical principles in research and were required to adhere to safety procedures during the collection of data given the security risk in some of the data sites. All researchers and research assistants completed the online FHI 360 Research Ethics Training Curriculum.

All interviews and discussions were conducted in private. All participants provided signed informed consent. Research assistants submitted all the data and the consent forms to their team leaders at the end of each day of data collection, and the team leaders were then required to transmit the data to the researchers immediately for storage in password-protected databases. All datasets and transcripts are anonymised.

Results

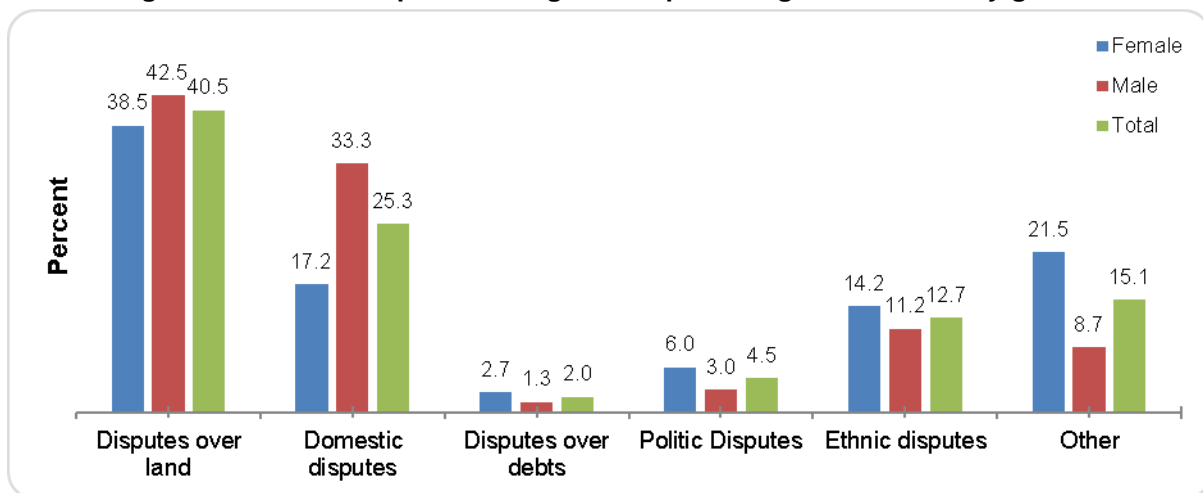
This section presents the results of the study under the following broad themes: types of disputes and conflict-resolution mechanisms; knowledge about legality/illegality of FGM/C; sources of information on formal and customary law; the list experiment; prevalence estimation from the list experiment; compliance motivations; religious and traditional obligations regarding FGM/C, knowledge of FGM/C practice as compared with other criminalised conduct, engendered knowledge of FGM/C, reasons for the practice of FGM/C; continuation/discontinuation of FGM/C, awareness of social cost of FGM/C, and the endorsement experiment. In the FGM/C knowledge and practice sections we compare FGM/C with other criminalised activities like riding a motorbike

without a helmet and paying police a bribe to avoid punishment to demonstrate the hypothesis that people tend to underreport FGM/C because FGM/C is rooted in the community customs while the other two are not.

Types of disputes and conflict-resolution mechanisms

The legitimacy of formal laws may be reflected in people’s preferred avenues for resolution of common disputes. We therefore carried out an assessment of common disputes in the communities studied, and how these disputes are resolved. Respondents were asked what the most common disputes were in their communities. Figure 4 shows the proportions as reported by the respondents disaggregated by gender. The most common disputes reported by both male and female respondents were disputes over land (41%) and domestic disputes (25%). A greater proportion of males (33%) than females (17%) reported domestic disputes. Other disputes revolved around livestock and cattle rustling, alcoholism and drug abuse, gossiping, insecurity, and the lack of or inadequate access to development resources like water and facilities like hospitals because of poor roads.

Figure 4. Common disputes among FGM/C-practising communities by gender



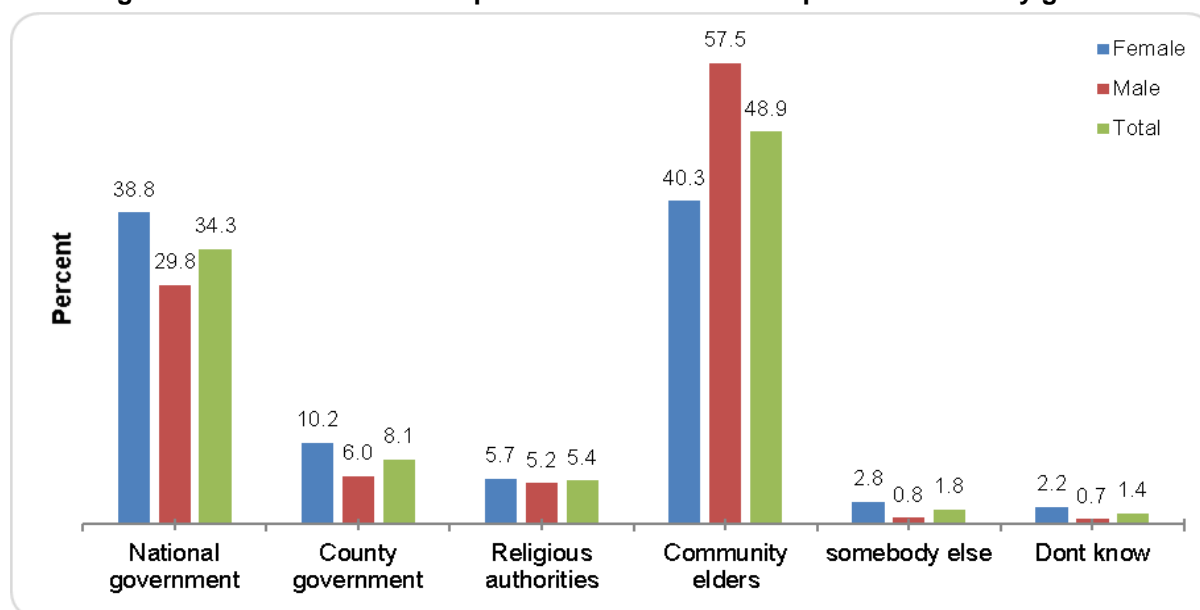
Within ethnic groups, there were variations in the main type of disputes with higher proportion of female respondents among Kipsigis (35%), Kisii (47%), and Maasai (45%) reporting disputes over land being the main disputes while a higher proportion of their male counterparts reported domestic disputes to be the most common disputes. Notably as well is that a higher proportion (68% female and 48% male) of respondents from the Samburu community reported ethnic disputes to be the most common types of disputes in the community.

Considering the disputes mentioned above, respondents were also asked what dispute resolution mechanisms existed and were preferred in their communities. Figure 5 shows the overall proportion of dispute-resolution mechanisms disaggregated by gender. Forty-nine percent of respondents preferred to engage community elders in case of a dispute because they had the most influence on what people do regarding rules and perceptions on the rules of what is required, permitted, or forbidden in the community. Thirty-four percent on the other hand preferred to engage the national government. Two percent of respondents preferred to engage people like parents, teachers in school, and neighbours.

There were significant differences by gender ($p < 0.001$) with a higher proportion of females (39%) than males (30%) preferring to engage the national government. A greater proportion of females (10%) than males (6%) preferred to engage the county government. In contrast, more males than females preferred to engage community elders in conflict resolution (males 58%, females 40%).

This means that customary law is more dominant in conflict resolution compared to formal law. However, there were variations by community and within each community by gender.

Figure 5. Preferred institution/persons for conflict or dispute resolution by gender



Slightly more than half of respondents from the Borana (54%), Kisii (54%), and Maasai (56%) communities preferred to engage the national government while a majority of those from the Kipsigis (72%) and Samburu (90%) preferred to engage community elders (Table 3). Among the Somali community, a considerable proportion (48%) preferred to engage community elders.

Table 3. Preferred institution/persons for conflict or dispute resolution by ethnic group

	Borana (N=203)	Kipsigis (N=202)	Kisii (N=194)	Maasai (N=198)	Samburu (N=198)	Somali (N=197)	Other (N=8)	Total (1200)
National government	54.2	14.4	53.6	56.1	5.6	21.8	50.0	34.3
County government	5.4	6.9	8.3	12.6	2.5	13.2	0.0	8.1
Religious authorities	4.9	4.0	7.2	2.5	0.0	14.2	0.0	5.4
Community elders	35.5	71.8	22.7	24.8	90.4	48.2	37.5	48.9
Somebody else	0.0	1.0	4.6	2.5	0.5	2.0	12.5	1.8
Don't know	0.0	2.0	3.6	1.5	1.0	0.5	0.0	1.4

As shown in Table A1, there were differences in the preferred conflict-resolution mechanism based on the type of dispute. Forty-two percent of the respondents who reported disputes over land to be the most common type of dispute said these would be resolved through formal law while 41% noted that they would be resolved by community elders. Half (50%) of those who reported domestic disputes to be the most common, said that these disputes would be resolved by community elders while 34% noted that they would be resolved by the national government.

Details of how each community disaggregated by gender are presented in Table A2 in the Appendix. A higher proportion of respondents from the Kipsigis (75% female, 69% male) and Samburu (87% female, 94% male) communities reported that community elders were the most influential. There was variation by gender among Somalis with more female respondents preferring to engage the national government (43%) and county government (27%) in resolving

conflicts while most men (82%) preferred engaging community elders. Qualitative interview participants pointed out that women's experience with customary law differs from that of men in that women are oppressed while men are favoured. In contrast, they noted that the experiences of men and women are the same under formal laws. Thus, women might prefer government (formal law) because in it, they are likely to get more favourable outcomes. It is also possible that women prefer government law over customary law because under customary law, dispute resolution is primarily handled by men as is evidenced from the quotes below:

"As I said earlier, it appears the government law is fair because it treats everyone equally. It benefits women more than customary law. Sometimes, when men are treated equally with women, there are men who still feel that they should not be treated equally with women, they feel that because they are men, they are more superior than women."

KII, Male, Prosecutor, Kisii

Reasons given for why customary law is preferred included the following: issues are resolved faster, no government involvement as issues are resolved within the community, and the costs incurred are lower compared to government law. Further, customary law is reconciliatory and thus plays a vital role in maintaining relationships within the community, which are often adversely affected when disputes arise. However, customary law was also noted to have disadvantages such as lenient penalties, which meant that offenders were likely to repeat the offense; the elders and their judgements are sometimes biased; and it conflicts with government law. Although formal state law was reported to have a number of advantages—for example, it is binding, it restores order, it provides for stiffer penalties, and it treats all people equally—it has the following disadvantages: there is corruption in administering justice, the process is long and time-consuming, it is expensive, and in most instances it brings about division between the parties. Participants noted that the selection of a dispute-resolution mechanism is not binary, with respondents reporting that where customary law is preferred, but does not resolve the issue or the remedy offered is not deemed satisfactory, individuals can then resort to formal law, as is evidenced by the following quotes:

"First, the men within the family call for a sitting called maiga [family sitting]. When these men come together, they go to the home where the theft occurred and talk about how theft happened in that family. They discuss how the theft came about and if they don't come to a solution, then that dispute has not been resolved. They then take a further step and involve the village elder. If the village elder is unable to solve the dispute the matter is escalated to the assistant chief. But dispute resolution always begins at the family level through a sitting called maiga then if necessary, the matter is escalated."

FGD, Male, 35 years and older, Kisii

"When it comes to stealing, she (Nyansiaboka) cannot go directly to the police. She has to follow the protocol that is from the village elders."

FGD, Female, 18–34 years, Kisii

"Sometimes if they are not resolved at the community level, they take the legal way. If it is an adult, we advise for legal proceedings."

KII, Female, Executive Officer, Isiolo

"If the resolution is inadequate, they go to court; the first person... the first place they come is to the advocate's office, and most of the people in Kilgoris come to my office here."

KII, Female, Advocate, Kilgoris

"I am not so sure whether the locals here understand that there is anything too big to be solved, but most of the cases, the ones that I have in court, are those that have become too troublesome, a repeat offender. Somebody who has refused to make peace at home, consistently has a habit of, for example stealing a cow, you become too much; even your

age mates say, 'ah we can't handle you, you need to learn a lesson,' so they push you so that you are pinched somewhere, and you sort of come back a corrected person."

KII, Male, Prosecutor, Kilgoris

"When there is a dispute and it is not solved by the elders, they go to the police then it will be a court case."

KII, Female, Social Worker, Kilgoris

The question of accessibility was also addressed, and here it was noted that enforcers of government law are mainly chiefs and the police while enforcers of customary law are mainly elders and religious leaders. Accessibility was thus framed in terms of ease of access to these enforcement officials. There were varying views on the accessibility of the police and the courts with some saying that they were accessible while others felt they were inaccessible. Accessibility mainly depended on distance to the police station or courts though in some instances, study participants defined accessibility in terms of the willingness or preference of community members to go to the courts or the police.

What we see therefore, is that individuals rely on both customary and formal law systems for conflict resolution, and that they prefer to first begin with customary law, and only when this option does not work for them, do they then resort to formal law.

With regard to criminal offences, the findings suggest that minor offences are best dealt with at the community level using customary mechanisms, while the more serious offences can be handled through formal law:

"The reason why it starts with the elder is that when the case is taken to the police and the case does not involve murder or a big dispute like cattle rustling, it will be taken back to the clan elders since it is a small case where one is in possession of the other person's foodstuffs. The accused person, the complainant, and the clan elders will sit together and repossess the stolen foodstuffs."

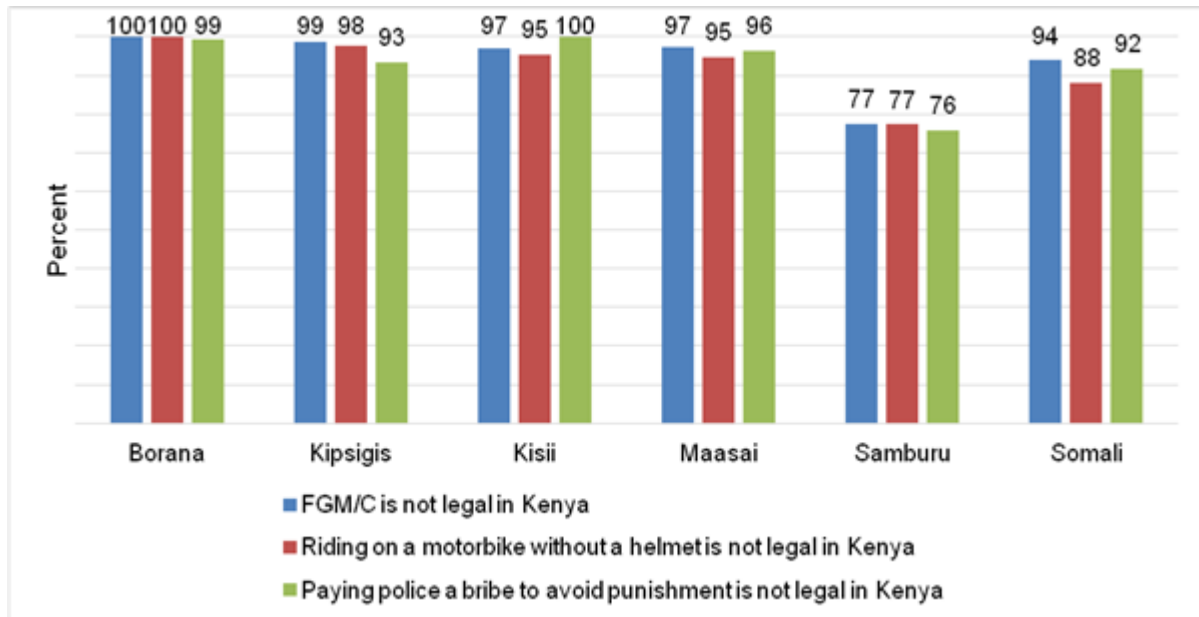
FGD, Female, 35 years and older, Somali

These are important findings, which indicate that formal law might be made more appealing to the communities if the disadvantages in this system of law are addressed, and if community elders and community gatekeepers are brought on board in some aspects of enforcement of formal law.

Knowledge about legality/illegality of FGM/C

Figure 6 shows the proportions of respondents who think FGM/C is legal or not legal in Kenya in comparison to their knowledge of whether riding a motorbike without a helmet and paying police a bribe to avoid punishment are legal or not in Kenya by ethnic group. Overall, 94% of all the respondents thought to the best of their knowledge that FGM/C was illegal, 3% thought it was legal, and 3% did not know whether it was legal or not. We also looked at legal knowledge by ethnicity (Table A3) and found that apart from the Samburu community, over 90% of the respondents regardless of gender across all the communities said that FGM/C was illegal in Kenya. A fifth of the male respondents among the Samburu community said they did not know whether FGM/C was legal or illegal in Kenya with 62% saying it was illegal. Notably, as well, among the Samburu community, 13% of the male respondents said FGM/C was legal. This variation among the Samburu might be explained by the sources of law in plural legal settings, where it was noted that while formal law makes FGM/C illegal, the practice might still be supported either by culture or religion. Thus, the views on whether FGM/C is permitted morally or by customary law may vary depending on whether one's culture and religion allow it.

Figure 6. Proportion of respondents who thought FGM/C is illegal in Kenya by ethnicity, and compared to those who thought riding on a motorbike without a helmet and paying police a bribe to avoid trouble are illegal



In addition, while a majority of survey respondents were aware that FGM/C is illegal in Kenya, some qualitative interview participants held the view that the law banning FGM/C in Kenya is oppressive because the community is barred from practising FGM/C freely despite its cultural significance. For example, during the FGD, Kipsigis men blamed anti-FGM/C laws for the high divorce rates and marital problems. They believe that in the past, girls who were excised were disciplined and had fewer problems in their marriages. Findings from qualitative interviews suggest that the presence of the law banning FGM/C and the awareness of the existence of the law do not necessarily have a deterrent effect. Individuals might be aware of the law, but also feel that the law is oppressive, and thus, rather than obey the law, they resort to measures that might help them circumvent the law while still practising FGM/C. From the quotes below, it is notable that FGM/C is practised in secrecy because those involved are aware of the punitive action that will be taken against them if they are caught:

“The government does not support circumcision. But there is the Somali tradition. Circumcision was practised in large numbers, but these days it has reduced. If today we go through the villages and visit them door to door, you cannot miss people who are doing it, though they are doing it in private. We all know it is prohibited and is not good. Since this is the people’s tradition, it is in the system and not left completely but the practice of stopping the practice is ongoing.”

FGD, Female, 35 years and older, Somali

Sources of information about formal and customary law

The main source of information about formal law was the media, particularly radio and television. A higher proportion, 41% and 46% of the female and male respondents, respectively, reported radio to be the main source of information on formal law, with 27% and 18% of female and male respondents, respectively, noting that the main source of information was the television. There were however, variations across the communities and across gender with higher proportion of respondents from the Borana and Somali communities saying it is TV, while a higher proportion of respondents from the Kipsigis, Kisii, Maasai and Samburu communities reported radio to be the main source of information on formal law (Table A4). Slightly under a third of Kisii

respondents reported that the chief/assistant chief was the main source of information on formal law.

Community elders were the main sources of customary information as reported by most of female (58%) and male (83%) respondents. Across ethnic groups however, there were slight variations. All male respondents from the Somali community said that community elders were the main source of information while the female respondents were distributed among family and friends (20%), community elders (33%), and NGOs (31%) (Table A4).

Future intentions to practise FGM/C

From the list experiment, there was a significant difference ($p=0.03$) in the mean number of items listed by the treatment group (2.6) than the control group (2.5). This difference suggests that the proportion estimates shown in Table 4 are unlikely to be an artefact of the sample. When disaggregated by ethnicity, however, the difference in means was only significant among the Somali community ($p=0.01$) and marginally significant (0.06) among the Samburu. The estimated proportion of respondents with future intentions to practise FGM/C was computed as 13% among all respondents. The estimated proportion of respondents from the Samburu and Somali communities who intended to practise FGM/C was 36%.

Table 4. Estimated proportion of respondents intending to practise FGM/C using the list experiment

	Treatment group (T)		Control group (C)		t-statistic	p-value	Estimated proportion (%) ($T_i - C_i$)/ N_t
	Mean (95% CI)	Total (T_i)	Mean (95% CI)	Total (C_i)			
Overall	2.6 (2.5,2.7)	1573	2.5 (2.4,2.6)	1497	1.90	0.03	13
Kipsigis	2.4 (2.2,2.6)	249	2.3 (2.1,2.5)	231	1.00	0.16	18
Samburu	3.2 (2.9,3.5)	321	2.9 (2.7,3.1)	286	1.57	0.06	36
Somali	2.9 (2.7,3.2)	290	2.6 (2.4,2.8)	254	2.35	0.01	36
Maasai †	1.7 (1.6,1.9)	168	1.9 (1.7,2.0)	187	-1.44	0.92	-19†
Kisii †	3.4 (3.1,3.7)	321	3.3 (3.0,3.6)	324	0.52	0.30	-3†
Borana	2.1 (2.0,2.2)	209	2.0 (2.0,2.1)	209	0.39	0.35	0

Notes:

Proportion of those intending to practise FGM/C in the future was estimated as the difference between the total number of activities by the treatment group and the control group expressed as a fraction of the total number of respondents in the treatment group

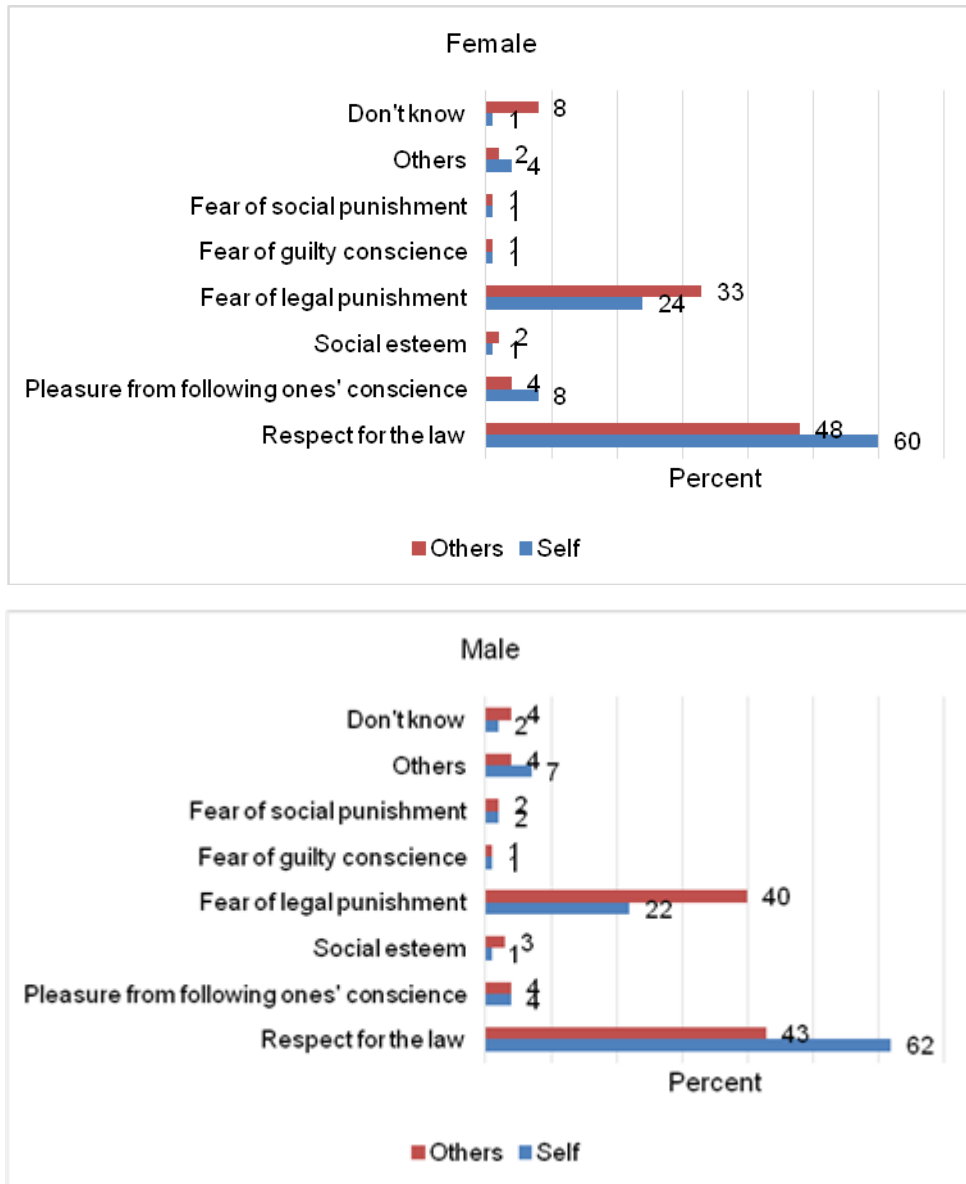
† Total counts in the control group were higher resulting in a negative difference between treatment and control group

N_t = total number of respondents in the treatment group

Compliance motivations

Respondents were asked what motivates them or others to follow Kenya's formal law on the one hand, and customary law on the other hand. This was not a question specific to the law prohibiting FGM/C, but rather our intention here was to analyse the perception of formal law in general, and to compare this with perceptions of customary law in general, so as to obtain data on what motivates people to obey the law in general. The findings would then inform the analysis of whether the factors that motivate people to obey law in general can be found in the context of the law prohibiting FGM/C in particular. Figure 7 shows proportions of male and female responses.

Figure 7. Motivating factors (self and others) for obeying Kenya’s formal law



Respect for the law and fear of legal punishment were the main factors that motivate most of the respondents to obey Kenya’s formal law. The same two factors were also reported to motivate others to obey the formal law. This is contrasted with the findings by Corpovisionarios (Guillot 2012), whereby with regard to self, intrinsic reasons such as moral obligation were cited as the motivation to obey the law; whereas with regard to others, extrinsic reasons, such as fear of punishment were cited as the motivations for obeying the law. In Kenya, we found that both intrinsic reasons (respect for law) and extrinsic reasons (fear of legal punishment) were cited as motivations for both self and others for obeying the law. Though a greater proportion of both males and females reported that others (relative to self) obey the law for fear of legal punishment. Qualitative interviews also revealed the fear of the law as an important deterrent:

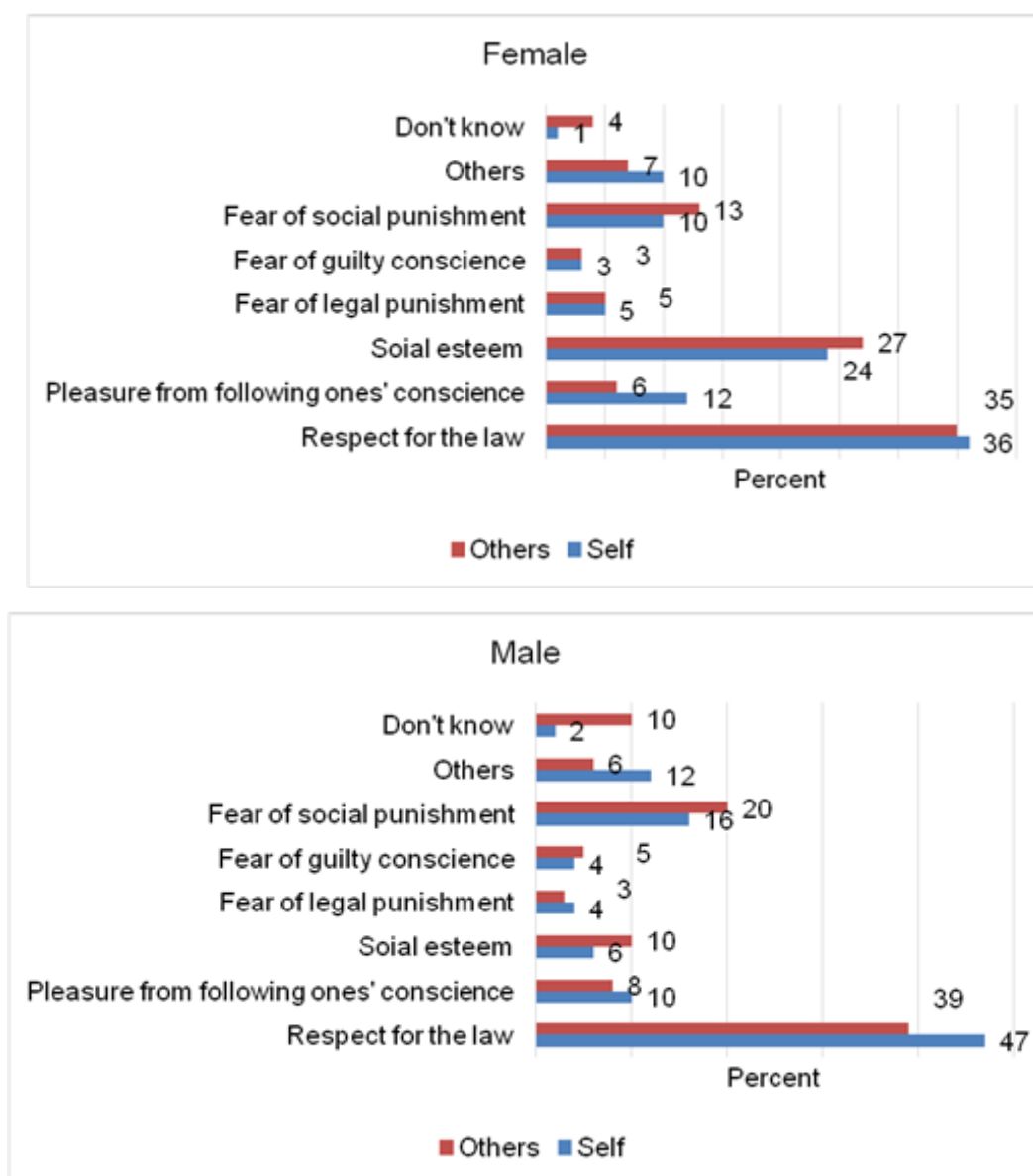
“Even me seated here I have girls, if not for the fear of this law and the chiefs, I would want my girl to be cut now. I fear the law and what people say but I could have circumcised her now. We are Somalis and if the girl is not cut then people will tell her that she is the unclean one; so such abuse to your child is very bad. We are unable to break the laws, but we could have done it because we all want our girls to be cut.”

FGD, Male, 35 years and older, Somali

At the ethnicity level (Table A 5), we noted gender variation among the Maasai community with a higher proportion of males (63%) than females (23%) saying that fear for legal punishment motivates others while a higher proportion of the females (46%) than males (16%) noted that others were motivated to obey the law because they respect the law. Among the Somali community, 63% and 49% of female and male respondents, respectively, said that social esteem motivates others.

Figure 8 shows results of factors respondents thought motivated them and others to obey customary rules. Again, respect for the law was cited by most of the respondents as a motivation for both themselves (47% male, 36% female) as well as for others (39% male, 35% female). Social esteem was cited by 24% and 27% of the female respondents as a factor that motivates them and others, respectively, compared to 6% and 10% of the male respondents, respectively.

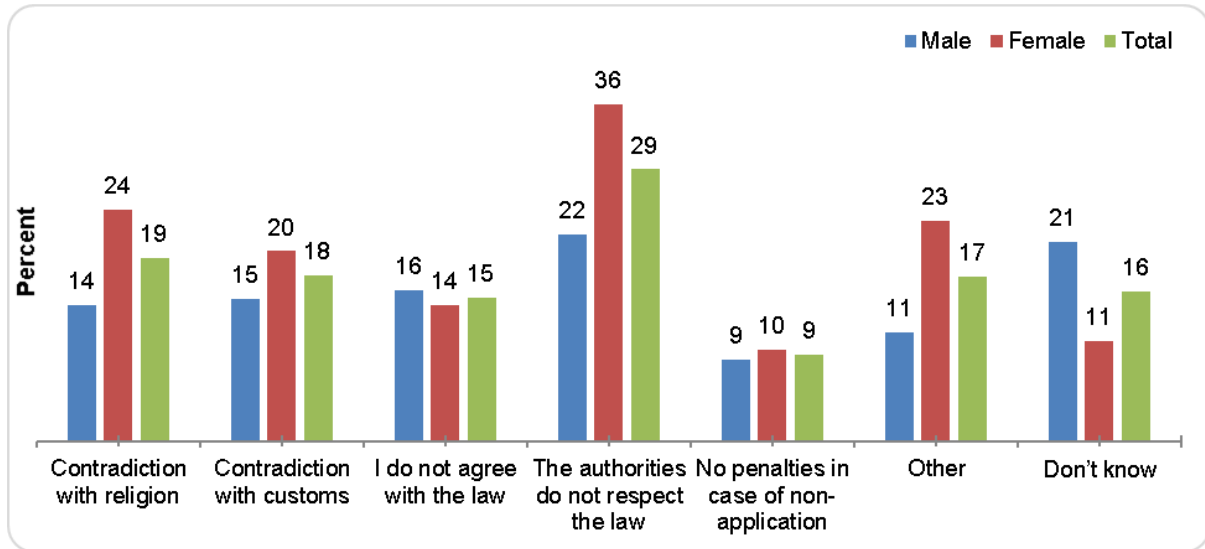
Figure 8. Motivating factors (self and others) for obeying customary laws



With regard to disobeying the law, participants noted that there were several situations when people in their community (defined as “people around here”) would consider it permissible to

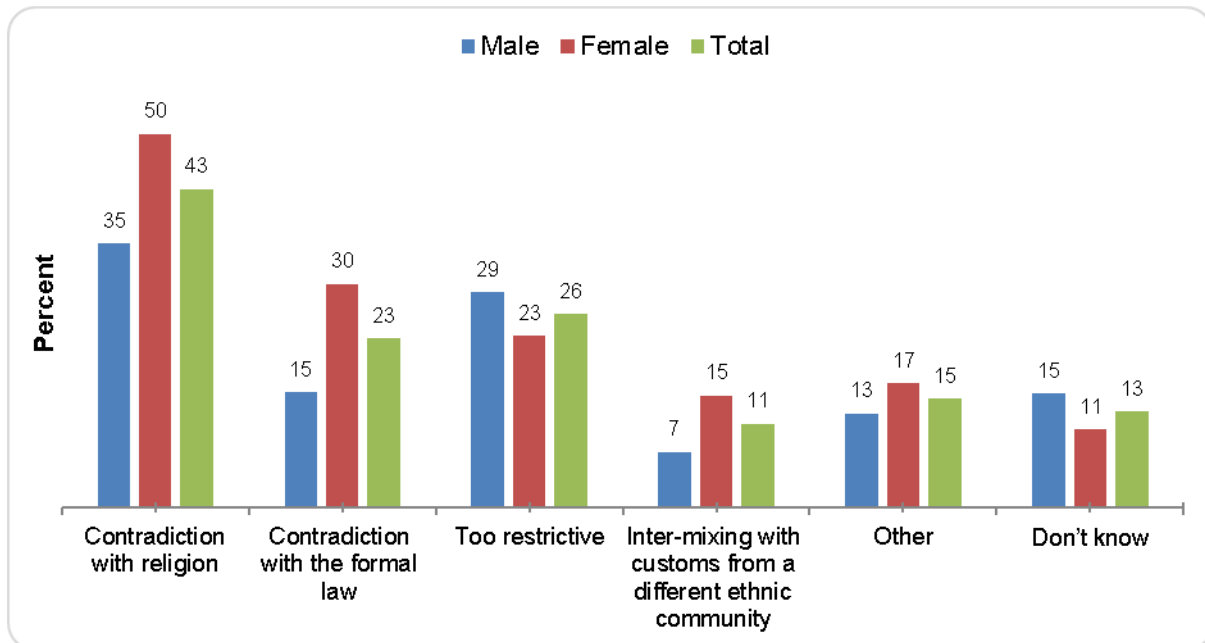
disobey Kenya's formal law and community customs. Figure 9 and Figure 10 illustrate the proportions citing these situations by gender.

Figure 9. Proportions of respondents citing various situations when people in their community would consider disobeying Kenya's formal law permissible, by gender (multiple responses allowed)



Overall, 29% of all the respondents (22% male and 36% female, $p < 0.001$) said people in their community would consider it permissible to disobey the formal law if the authorities themselves do not respect the law (Figure 9), while 19% (14% male and 24% female, $p < 0.001$) said people would consider it permissible to disobey the law if it contradicts with religion. We found significant differences across ethnic groups in their responses. For example, among Somalis, 66% and 87% ($p = 0.001$) of female and male respondents, respectively, noted that people in their community would consider it permissible to disobey the law if it contradicted religious beliefs (Table A6). In contrast, 62% of Borana females and 73% of Borana males ($p = 0.099$) said people in their community would consider legal disobedience permissible when the authorities themselves do not respect the law. Differences between males and females in different ethnic groups were also noted. For example, while a high proportion of male respondents from the Kipsigis community said people would consider disobeying Kenya's formal law permissible if it contradicts with the custom (49%), if one personally disagrees with the law (60%), and if authorities do not respect the law (65%), few women cited these reasons (7%, 34%, and 11%, respectively).

Figure 10. Proportion of respondents citing various situations when people in their community would consider disobeying customary law permissible, by gender (multiple responses allowed)



A slightly different pattern is seen in the responses to the situations when people in respondents' community would consider disobeying community customs permissible (Table A6). Contradiction with religion was cited by a high proportion of respondents (disaggregated by gender) from the Borana community (78% female, 54% male, $p < 0.001$), Kipsigis community (49% female, 57% male, $p = 0.256$), Maasai community (female 6%, male 66%, $p < 0.001$), and Somali community (75% female, 95% male, $p < 0.001$). Contradiction with the formal law was also cited as a prominent reason why people would disobey community customs among sections of respondents from the Borana, Kipsigis, Kisii, and Samburu communities. Sixty-eight percent of male respondents from the Kipsigis community said people would disobey community customs if they contradict the formal law, while 40% and 51% of female and male respondents respectively from the Kisii community, 41% of the male respondents from the Samburu community, and 57% of the male respondents from the Borana community cited the restrictiveness of the custom. Notably as well, a considerable proportion of Maasai female respondents (38%) and male respondents from Samburu (47%) said they did not know why people would disobey community customs.

The qualitative interviews also showed that while fear of punishment is a motivation for obeying the law, other factors such as religion and custom, and the failures of the formal law system also influence the decisions individuals make either to obey or disobey. In particular, participants noted that conflict between various systems of law in a plural legal setting causes people to make decisions that will lead them to comply with one law, but then disobey the other. Thus, for instance, participants noted that people might disobey formal law if it conflicts either with religion or custom or vice versa. Thus, for example, religion can influence people to disobey the formal law banning FGM/C if there exists a belief that FGM/C is required under one's religion. Custom might influence decisions within the family or clan to comply with customary provisions that require girls and women to undergo FGM/C and in turn, this would mean that a decision is made to disobey the formal law which conflicts with custom. What we see, therefore, is that there is a need to address the conflicts between different sources of law in a plural legal setting in order to achieve high levels of compliance.

“M: Would a circumciser be considered a lawbreaker, maybe by the family, the girls’ relatives, or neighbours?”

P: Not in the community, because FGM/C is still practised, but to the government, yes. But in the community, they do not think they are breaking any law and they are asking why they should not practise FGM/C.”

KII, Female Leader, Samburu

“...in our religion, we are allowed to cut, some girls are taken far to other countries to be cut for fear of being arrested, so they are taken to Manderu and then to Somalia.”

FGD Male, 35 years and older, Somali

“Actually, we have to provide relevant training or sensitisation to inform people or make members of the community be more informed of what is happening in order to avoid this conflict between customary laws and government laws.”

KII, Male, Sub-County Administrator, Kipsigis

Furthermore, gender also emerged as a factor that might influence the decision to obey or disobey the law. For example, men were noted to be more likely to disobey the formal law system because of internal failures within the formal law system, such as corruption or failure of government officials to adhere to the law. This means interventions aimed at ensuring compliance must be informed by gender differences.

Religious and traditional beliefs regarding FGM/C practice

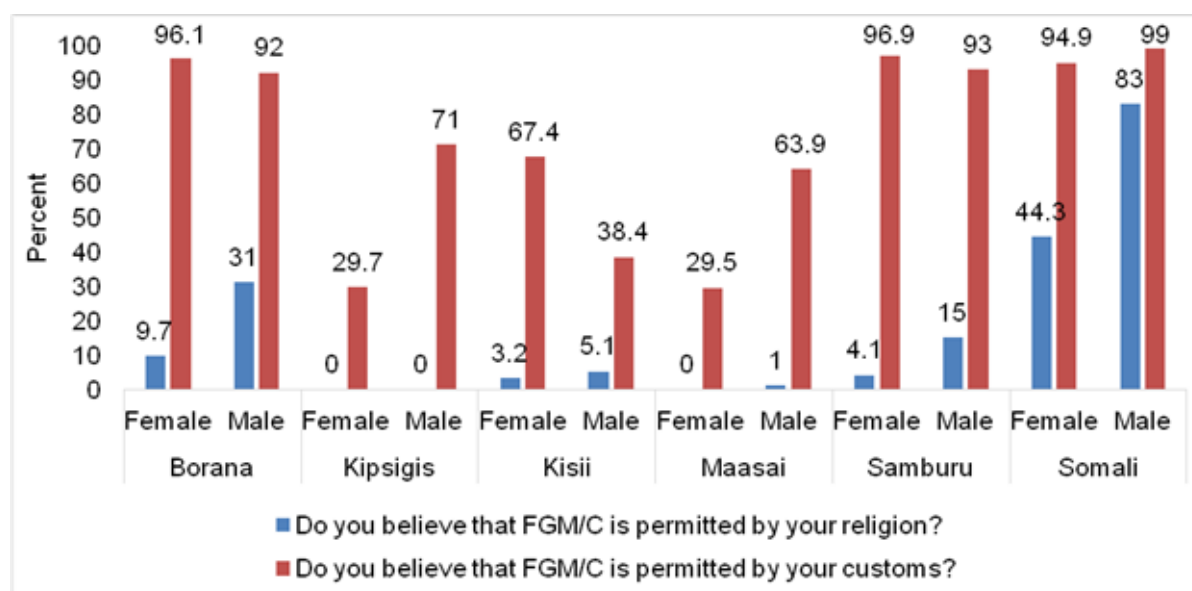
Respondents were asked whether they believed FGM/C is permitted by their religion and customs and compared with what they thought on riding a motorbike without a helmet and paying police a bribe to avoid punishment. Table 5 shows these results disaggregated by gender.

Table 5. Perceptions on whether FGM/C is permitted by religion and customs

	Female (N=600)	Male (N=600)	Total (N=1200)	P-value
Believe that the following are permitted by religion				
FGM/C	60 (10.1)	135 (22.6)	195 (16.3)	<0.001
Riding on a motorbike without a helmet	25 (4.4)	44 (7.7)	69 (6.1)	0.021
Paying police a bribe to avoid punishment	12 (2.3)	8 (1.5)	20 (1.9)	0.145
Believe that the following are permitted by customs				
FGM/C	415 (69.6)	455 (76.2)	870 (72.9)	0.012
Riding on a motorbike without a helmet	96 (17.0)	65 (11.3)	161 (14.1)	0.007
Paying police a bribe to avoid punishment	82 (15.8)	17 (3.1)	99 (9.3)	<0.001

We found that 16% of all the respondents believed that FGM/C is permitted by their religion with 23% of male respondents holding this belief compared to 10% of females, $p < 0.001$. Asked whether they believed FGM/C was permitted by their customs, 73% of all the respondents said they believed that FGM/C was permitted and this contrasted sharply with riding on a motorbike without a helmet (14%) as well as paying a bribe to the police to avoid punishment (9%). These results suggest that the anti-FGM/C law is likely in conflict with customs or religion, which might affect enforcement of the anti-FGM/C law. In contrast, the law prohibiting riding a motorbike without a helmet or paying a bribe to the police is not likely to conflict either with custom or religion, and hence, it might be easier to enforce these laws.

Figure 11. Proportion of respondents agreeing that FGM/C is permitted by religion or custom, by ethnic group



At the ethnicity level (Figure 11), there was a significant difference in the proportion of males (83%) compared to females (44%) who believed that FGM/C is permitted by their religion. The proportion of respondents who believed FGM/C is permitted by their religion was highest among male and female Somalis and Borana males. It is important to note that the Somali and Borana communities are predominantly Muslim communities. Among the respondents from the Samburu community, 52% of the female respondents and 60% of the male respondents believed that FGM/C is not permitted by their religion, with 44% of females and 25% of males not knowing whether it was permitted.

Perceptions on whether FGM/C is permitted by community customs differed by gender among respondents from Kipsigis, Kisii and Maasai communities. A higher proportion of male (71%) than females (30%) respondents from the Kipsigis community believed FGM/C is permitted by their customs. The same pattern was noted among the Maasai community with 64% of the male respondents believing that FGM/C is permitted by their community customs compared to 30% of their female counterparts. In contrast, a greater proportion of Kisii females (67%) than males (38%) believed that FGM/C is permitted by their community customs. There were few differences between males and females among the Borana, Samburu, and Somali communities.

When is it acceptable to disobey Kenya’s formal law?

Respondents were asked to give situations when it would be acceptable to disobey Kenya’s formal law by responding yes or no to a set of situations. Table 6 shows proportions of those who agreed with these questions disaggregating them by gender.

Table 6. Number and proportion of respondents who agree that it is acceptable to disobey Kenya's formal law in certain situations, by gender

Situation	Female (N=600)	Male (N=600)	Total (N=1200)	p-value
If this law is clearly against one's moral principles	200 (33.3)	197 (32.8)	397 (33.1)	0.886
If one would find it too costly to obey this law	182 (30.3)	167 (27.8)	349 (29.1)	0.297
If one knows that this law is not enforced	178 (29.7)	165 (27.5)	343 (28.6)	0.357
If one knows that most of the people he or she knows best do not follow this law	99 (16.5)	164 (27.3)	263 (21.9)	<0.001
If one knows that most of the people he or she knows best would approve of breaking this law	98 (16.3)	121 (20.2)	219 (18.3)	0.081
If one does not know about this law	187 (31.2)	259 (43.2)	446 (37.2)	<0.001
If one thinks that this law was made without representing the interests of people like him or her	249 (41.5)	236 (39.3)	485 (40.4)	0.404
If one thinks this law is enforced unfairly	298 (49.7)	319 (53.2)	617 (51.4)	0.247

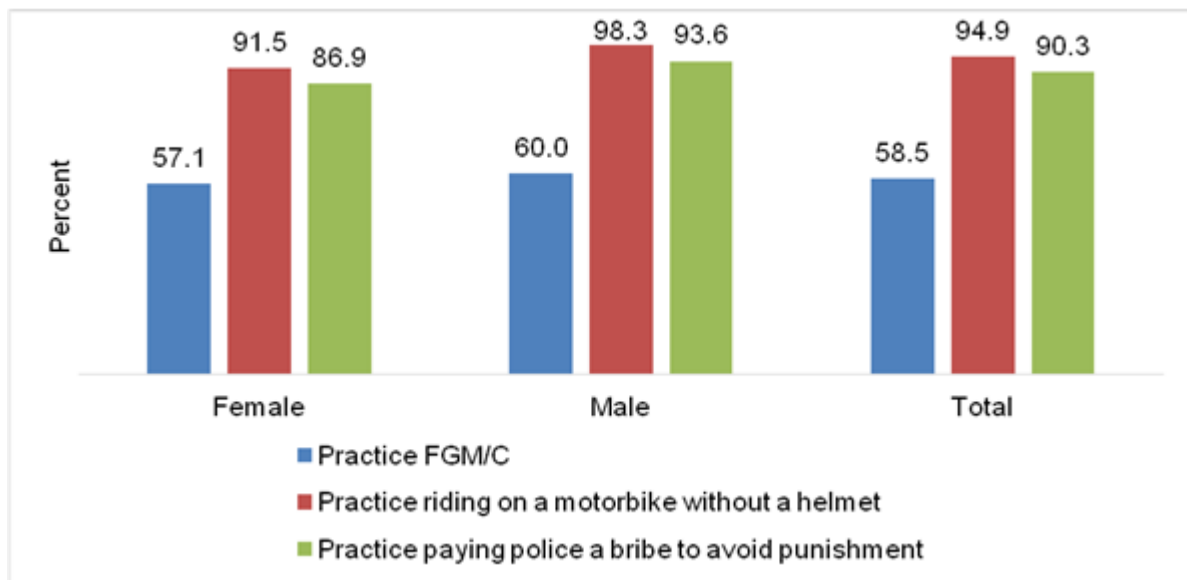
As shown in Table 6, significant differences by gender were noted in the proportion of respondents who agreed that it would be acceptable to break/disobey Kenya's formal law if one knew that most of the people he/she knew best did not follow the law (17% female, 27% male, $p < 0.001$) and also if one did not know about that law (31% female, 43% male, $p < 0.001$). High, though not statistically significantly different by gender, 50% of female respondents and 53% of male respondents interviewed said it would be acceptable to break Kenya's formal law if one thinks the law is enforced unfairly. Forty-one percent and 39% of the female and male respondents, respectively, said it would be acceptable to break Kenya's formal law if one thinks the law was made without representing the interests of people like him/her. Notably as well, 43% of males and 31% of females admitted that it would be acceptable to break/disobey it if one did not know about the law.

At the ethnicity level (Table A7), a higher proportion of female respondents from the Somali community (>80%) said it would be acceptable to break Kenya's formal law if the law is clearly against one's moral principles, if one finds it too costly to obey the law, if one knows that the law is not enforced, if one does not know about the law, if one thinks the law was made without representing the interest of people like him/her, or if one thinks the law is enforced unfairly, compared to less than 65% of their male counterparts citing the same reasons. There were gender variations from the Samburu and Kipsigis communities with more male respondents saying it would be acceptable to break Kenya's formal law if one does not know about the law (61% Kipsigis, 75% Samburu); if one thinks the law was made without representing the interest of people like him/her (62% Kipsigis, 67% Samburu); or if one thinks the law is enforced unfairly (74% Kipsigis, 84% Samburu), while less than 25% of the female respondents from the two communities cited the same reasons, apart from the 38% of the female respondents from Kipsigis community who said it is acceptable to break Kenya's formal law if one thinks the law is enforced unfairly. Less than 30% of both female and male respondents from the Kisii community cited the above reasons, with 70% or more thinking it is not acceptable to break Kenya's formal law. Among the Maasai community, apart from 56% of male respondents who said it would be acceptable if the law is clearly against one's moral principles, more than 60% said it is not acceptable to break Kenya's formal law in any of the other circumstances listed.

Perceived FGM/C practice compared to other criminalised conduct

To assess whether there are any variances in the way individuals might respond to issues concerning criminalised conduct that is rooted in tradition such as FGM/C and criminalised conduct that is not rooted in any tradition, respondents were asked whether they thought people in their communities practised FGM/C. We contrasted the responses to those by asking respondents if they thought people in their communities rode motorbike without a helmet or paid bribes to the police to avoid punishment. Figure 12 shows the overall proportions and proportions disaggregated by gender.

Figure 12. Proportion of respondents who believe that people in their community practise FGM/C, ride a motorbike without a helmet and pay bribes to the police to avoid punishment, by gender



Fifty-nine percent of all respondents thought FGM/C is practised in their community with 57% of the female respondents and 60% of the male respondents interviewed having the same belief. In contrast, 95% of respondents thought that people in their community ride a motorbike without a helmet, and 90% that people pay the police a bribe to avoid punishment. What this tells us is that individuals were more forthcoming with information concerning criminalised conduct that is not rooted in custom, or tradition. This finding suggests that people may underreport criminal conduct for activities that are rooted in custom such as FGM/C. Table 7 shows results disaggregated by ethnicity. Details of perceptions of male and female respondents in each ethnic group are presented in Table A8.

Table 7. Proportion of respondents who believe that people in their community practise FGM/C, ride a motorbike without a helmet, and pay bribes to the police to avoid punishment, by ethnicity

	Borana (N=203)	Kipsigis (N=202)	Kisii (N=194)	Maasai (N=198)	Samburu (N=198)	Somali (N=197)	Other (N=8)	Total N=1200
Do you think that people in your community practise female genital mutilation/excision?								
Yes	73.9	14.9	46.4	31.8	87.5	96.5	85.8	58.5
No	26.1	84.6	49.5	66.7	12.5	1.5	8.1	39.2
Refused to answer	0.0	0.0	0.0	0.0	0.0	1.0	0.0	0.2
Don't know	0.0	0.5	4.1	1.6	0.0	1.0	6.1	2.2
Do you think that people in your community ride on motorbikes without a helmet?								
Yes	95.0	86.9	99.0	95.7	100.0	93.7	99.0	94.9
No	5.0	12.1	1.0	4.3	0.0	6.3	1.0	4.9
Don't know	0.0	1.0	0.0	0.0	0.0	0.0	0.0	0.2
Do you think that people in your community pay police bribes to avoid punishment?								
Yes	97.9	78.8	94.5	86.4	75.0	82.3	100.0	90.3
No	1.6	13.5	2.8	9.7	12.5	8.1	0.0	5.8
Don't know	0.5	7.8	2.8	4.0	12.5	9.7	0.0	3.9

Results show that there was significant variation by ethnicity on perceptions of whether FGM/C was practised in their communities. Three quarters or more of respondents from the Borana (74%), Samburu (88%), and Somali (96%) communities thought FGM/C was practised in their community while a quarter of respondents from the Kipsigis community, 46% from the Kisii, and 32% from the Maasai community also thought FGM/C was practised in their community. Compared to other activities, a higher proportion of respondents from Kipsigis community thought people in their community ride on motorbikes without a helmet (87%) and pay bribes to the police to avoid punishment (79%). A similar pattern is seen among those from the Kisii and Maasai communities.

Perception of FGM/C practice also varied by gender (Table A8). Among the Kisii community, for example, 59% of male respondents and 35% of females thought FGM/C is practised in their community. Among respondents from the Borana community, a very high proportion of male respondents (98%) thought FGM/C is practised in their community compared to 50% of their female counterparts. As noted earlier, these results suggest that people may underreport prohibited activities that are rooted in culture.

The findings from the qualitative interviews suggest that gender differences may also stem from the limited involvement of males in FGM/C decisions. This viewpoint is illustrated in the following quotes from Maasai participants:

“The father does not know when the girl is cut. Those things happen on holiday and when the father goes to look after the cattle, the girl is left at home.”

FGD, Male, 35 years and older, Maasai

“Normally this practice of the cut to girls, its decision is not the father but mother. It is the women that plan. The mother with her friends in the village do it. In the past it was not a secret to the fathers, but nowadays, ... when they do it, they do it when the father does not know. It is done by the mother and her friends. It is not the father's decision.”

FGD, Male, 35 years and older, Maasai

Respondents were also asked to estimate how many girls and women in their communities had been cut. Table 8 summarises the results of respondents' perceptions about the number of girls and women who had undergone FGM/C in their communities. Results are disaggregated by gender.

Table 8. Perceptions about number of girls and women who had undergone FGM/C, by gender

	Female	Male	Total	p-value
How many girls in your community do you think are cut?				
All girls	12.4	3.5	8.0	<0.001
Most girls	28.3	37.0	32.7	0.002
Some girls	10.2	11.9	11.1	0.350
A few girls	17.8	15.8	16.8	0.360
No girls	27.0	25.5	26.2	0.560
Don't know	4.2	6.4	5.3	0.060
How many women in your community do you think are cut?				
All women	48.2	27.6	37.9	<0.001
Most women	39.6	50.8	45.2	<0.001
Some women	6.7	9.2	8.0	0.110
A few women	3.2	4.2	3.7	0.360
No woman	1.0	5.4	3.2	<0.001
Refused to answer	0.0	0.2	0.1	-
Don't know	1.3	2.7	2.0	0.100

Forty-one percent of all respondents thought all (8%) or most girls (33%) had been cut, 28% thought some or a few girls, 26% thought no girl had been cut, and 5% did not know. There were significant variations in the response by gender ($p < 0.001$) with a higher proportion of females (12%) than males (4%) believing that all girls had been cut. However, more male respondents (37%) than female respondents (28%) thought most girls had been cut.

Perceptions on number of girls and women who had undergone FGM/C varied largely by ethnicity with high proportions of both male and female respondents from the Kipsigis and Maasai communities thinking a few or no girl had been cut (Table A8). Among the Borana, perceptions varied by gender with 55% of the female respondents thinking a few or no girls had been cut compared to only 10% of males. We also sought to understand if what they perceived about girls would be any different from what they perceived about adult women. With the exception of Maasai males, across all communities, majority (>50%) of respondents thought that all or most women had been cut. These results suggest that adult women are more likely to have undergone FGM/C than girls younger than 18 years:

However, when triangulated with the qualitative data, these results underscored that FGM/C is now practised in secret in order to avoid the law, and further that communities generally do not talk openly about FGM/C:

"The law makes FGM/C be done in secret; you will never hear that someone has cut her daughter. It is all done in secret thanks to the law...."

FGD, Female, 35 years and older, Turkana

"It [FGM] is done in secret. People do not know. Leaders talk in meetings, communities just listen to them and do what they want to do.... I cannot know whether my neighbour's daughter is cut because nobody talks about it because the law does not allow it, you do it secretly."

KII, Female, Chief of Staff, Samburu

The implication here is that communities generally will not talk openly about FGM/C, and this might affect the responses given to direct questions concerning FGM/C. Hence, individuals are not likely to give accurate responses to direct questions about FGM/C, and this might be influenced by fear of the law.

Reasons for the practice of FGM/C

Eighty-two percent of respondents noted that tradition was the main reason why people in their community practised FGM/C. Table 9 summarises the results of reasons why respondents thought FGM/C is practised in their community. Moreover, the instrumental role of FGM/C in controlling female sexuality was cited as the primary reason for the practice. Qualitative interview participants noted that girls and women who do not undergo FGM/C were stigmatised, a factor that led many girls and women to take part in the practice.

“It is the culture that has been practised for ages and it is the custom which dictates that girls should be cut irrespective of the law.”

FGD, Female, 18–34 years, Somali

“We don’t know the reason, but if you look keenly, you find that most women think that uncircumcised girls have a high libido, so they say that when that part is cut, the girl’s desire to have sex is reduced and so her sexual discipline is maintained.”

FGD, Male, 35 years and older, Maasai

“Our people used to say that if the girl is not circumcised and is left like that, she will become a prostitute and she loves men...”

KII, Female, Chief, Isiolo

“The mother is the one who will say that her daughter should be circumcised. The reasons are the transition of the daughter from childhood to adulthood, other one is the mother will have seen this as a qualification to be called a mother as in our community we believe that an uncircumcised girl is not responsible, and again she cannot participate in any occasion because she is believed to be a child.”

FGD, Male, 18–34 years, Kipsigis

Table 9. Reasons for the practice of FGM/C among interviewed respondents, by gender

	Female	Male	Total	p-value
<i>Why do you think people in your community continue to practice FGM/C</i>				
Everyone else does it	3.4	2.2	2.8	0.150
Religious obligations	0.8	0.7	0.8	0.500
Tradition	74.4	90.1	82.2	<0.001
There are a few penalties for doing so	0.5	1.0	0.8	0.252
Other	13.1	3.4	8.2	<0.001
Don't know	7.4	2.7	5.0	<0.001
Refused to answer	0.5	0.0	0.3	-

Only 3% said that people in their community practise FGM/C because everyone else practised it (Table 1). Religious obligations were cited by 1% of the respondents and 5% did not know the reason why their communities practised it. What we see, therefore, is that while FGM/C is perceived as a practise that finds meaning in cultural expression, the motivations for practising it are generally individual. Other reasons given for the practise of FGM/C included lack of education and legal knowledge, for marital reasons, pressure from older circumcised women and girls, lack of understanding of the adverse effects, personal choice, and that it was their right.

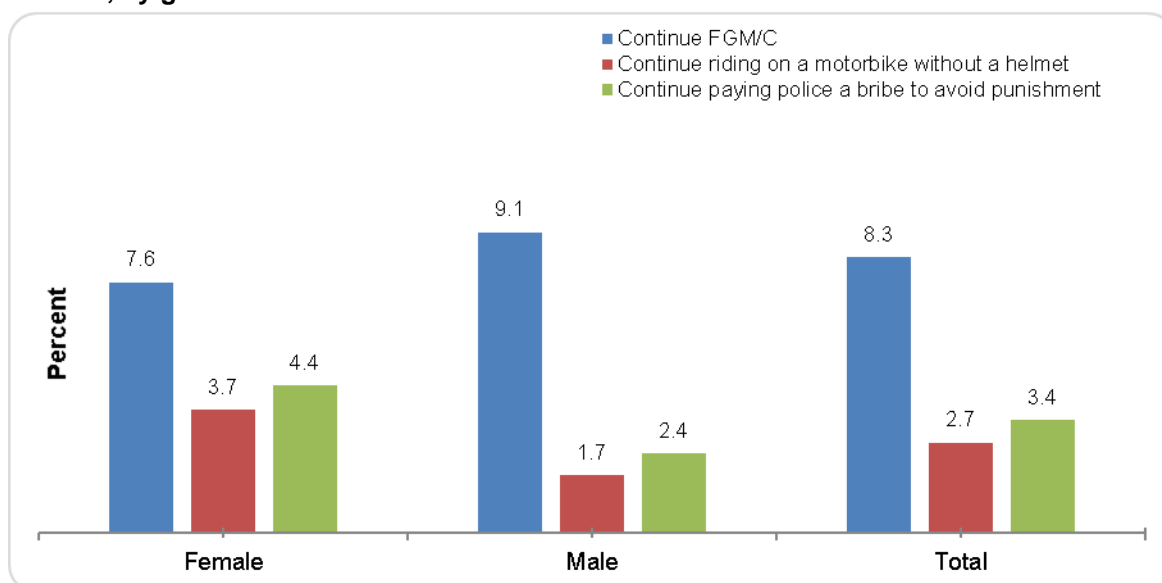
There was significant variation by gender with 90% of the male respondents compared to 74% of the female respondents citing tradition as the main reason why FGM/C occurs in their community.

At the ethnicity level, apart from the female respondents from the Kipsigis community, more than 70% of the respondents believed their communities practised FGM/C because it was a tradition (Table A9). Sixteen percent of female respondents from the Samburu community and 8% of male respondents from the Kisii community said people practise FGM/C because everyone else does it.

Continuation/discontinuation of FGM/C

Respondents were asked whether they would consider continuing FGM/C practice, riding a motorbike without a helmet, or paying bribes if everyone else in their community discontinued these practises. Figure 13 shows the overall proportions disaggregated by gender of those who said they would continue with the practice even if everyone else discontinued it.

Figure 13. Proportion of respondents who would continue FGM/C practice, riding a motorbike without a helmet, or paying bribes if everyone else in their community discontinued these practises, by gender



Eight percent of all respondents stated that they would continue to practise FGM/C even if everyone else in their communities discontinued the practice. Disaggregated by gender, 8% of the female respondents and 9% of the male respondents stated that they would continue practising FGM/C even if others in their community discontinued the practice. Compared to continuing FGM/C practice, less than 5% of both male and female respondents said they would continue with the practice of riding on a motorbike without a helmet and paying police a bribe to avoid punishment if everyone else in their community were to discontinue.

Figure 14. Continuation/discontinuation of FGM/C in comparison with paying police bribe and riding on a motorbike without a helmet

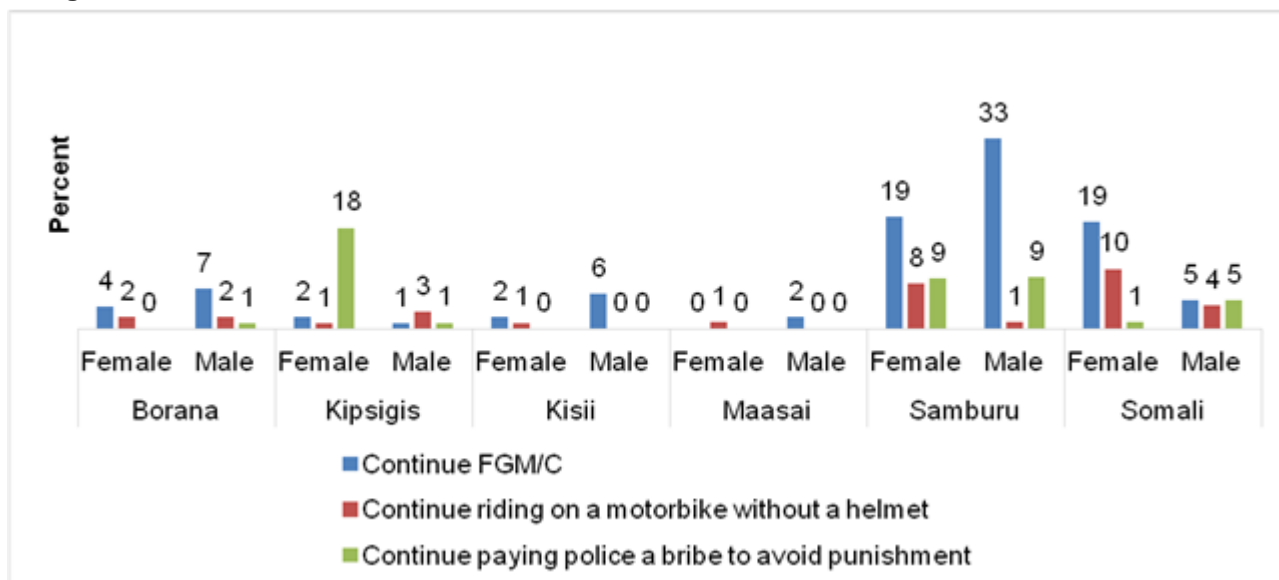
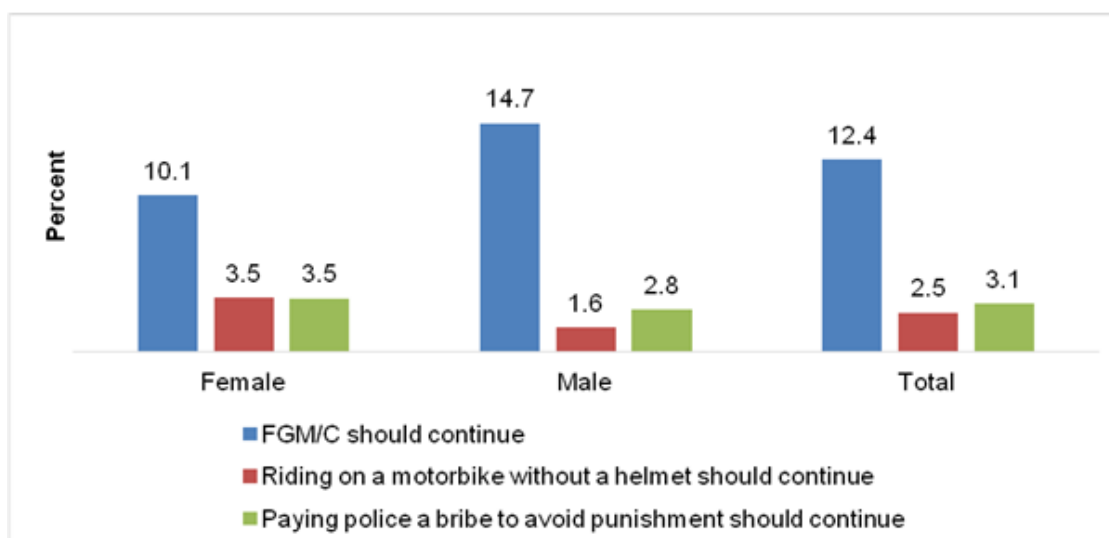


Figure 14 and Table A9 disaggregate these results by ethnicity. A relatively higher proportion of female respondents (19%) and male respondents (33%) from the Samburu community compared to other communities interviewed said they would continue practising FGM/C even if everyone else in their community discontinued. In addition, compared to their male counterparts (5%), a relatively high proportion of the female respondents from the Somali community (18%) stated that they would continue with the practice. Fewer than 10% of respondents from the other communities stated that they continue with the practice if everyone else discontinued it. Thus, acceptance of the practice within the community is a major factor that influences individuals to make the decision to engage in the practice of FGM/C.

Asked whether individually they believed that FGM/C should be stopped or should continue, overall, 12% of all respondents stated that FGM/C should continue. This figure is close to the list experiment results, which show that 13% of the respondents would continue to practise FGM/C despite the existence of the anti-FGM/C law. Disaggregated by gender, 10% of female respondents and 15% of male respondents said the practise should continue (Figure 15).

Figure 15. Proportions of respondents who think that FGM/C, the practice of riding a motorbike without a helmet, and paying bribes should continue, by gender



Notably, responses varied by gender among the Samburu community and slightly among the Somali community. A higher proportion of the female respondents (68%) from the Samburu community than males (33%) said the practice should be stopped. Compared to their male counterparts (5%), a relatively high proportion of female respondents from the Somali community (13%) would continue with the practice.

Respondents were also asked what they would do if they found out that a neighbour was going to practise FGM/C. Forty-seven percent of males and 38% of female indicated that they would notify the chief. Notably, about a fifth of the respondents would do nothing about it with the proportions who would do nothing differing significantly by ethnic group (Table A10). A high proportion of respondents from the Samburu community (53% female, 63% male) stated that they would do nothing about it. Apart from respondents from the Borana and Samburu communities, more male than female respondents would notify the chief, with three-quarters of Maasai and Somali men indicating that they would notify the chief compared with 59% and 42% of their female counterparts, respectively. The proportion of respondents who would talk to a family member was highest among respondents from the Borana community (42% female and 24% male) compared to less than 11% of the respondents from the other five ethnic groups. These results suggest that chiefs play a significant role in the enforcement of the law against FGM/C.

Awareness of social costs of FGM/C

Asked whether in their opinion life in the village was more difficult or less difficult for uncut women, 79% of female and 70% of male respondents from the Samburu community said that life would be much more difficult for uncut women (Table A10). A relatively high proportion of respondents from the Somali community (31% of females and 29% of males) also felt that life would be much more difficult for uncut women. In contrast, 86% of females from the Borana community and 73% of Kipsigis males thought that life would be much less difficult for uncut women.

The data indicate that respondents were generally aware of both the positive and negative consequences of FGM/C. Respondents noted that the major consequences of having women or girls undergo FGM/C include complications during delivery, excessive bleeding, reduced sexual urge, infections, death, and psychological issues. The major consequences of not having girls or women undergo FGM/C include stigma, that they might not get married, might be promiscuous, and might face social discrimination. Study participants also identified positive consequences for women or girls who do not undergo FGM/C with some noting that there were no consequences faced. The positive consequences of abandoning FGM/C that were cited included that the girl or woman will continue with her education, will be a role model, will have good health, and will get married. As noted in the following quote, in making the decision to abide by the law, some participants explained that they weighed the benefits and costs of practising FGM/C:

“Regarding FGM/C, we no longer accept the cut because the girl might bleed till she dies and one might miss the girl and the cows (bride wealth). It is better we accept the law.”

FGD, Female, 35 years and older, Kipsigis

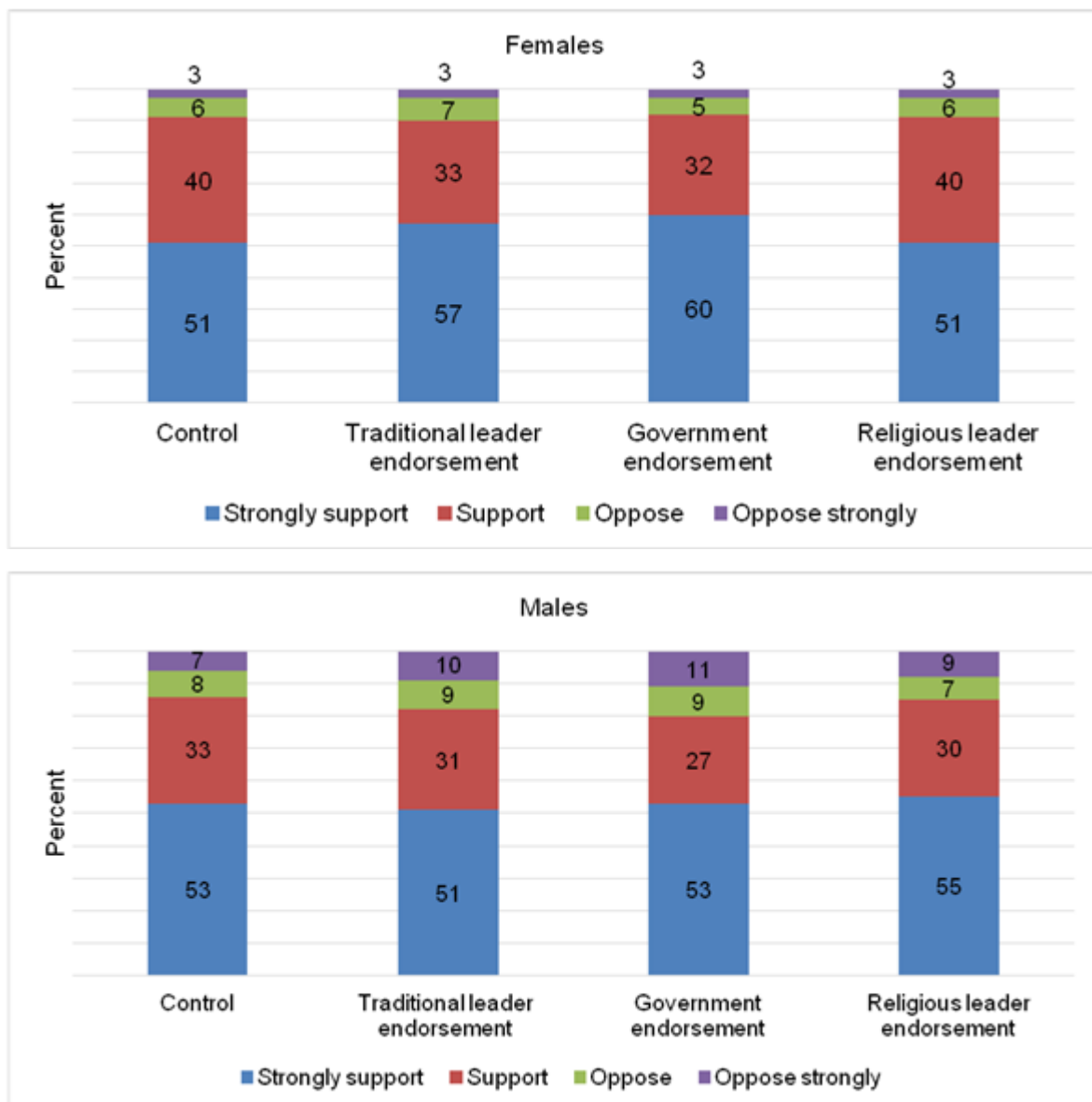
Asked if neighbours would approve or disapprove if they cut their daughters, over 75% of the respondents from the Borana, Kipsigis, Kisii, and Maasai communities said their neighbours would disapprove it (Table A10). Among the Samburu community, 84% of the female and 87% of the male respondents said their neighbours would approve or strongly approve if they cut their daughters, with only 11% and 6% of the female and male respondents saying their neighbours would disapprove. There were significant gender differences among respondents from the Somali community with a relatively higher proportion of females (85%) saying their neighbours

would approve or strongly approve and 74% of males saying their neighbours would disapprove or strongly disapprove if they cut their daughters. Twenty-three% of male respondents from the Somali community said they did not know whether their neighbours would approve or disapprove it.

Support for abandonment programmes

In Figure 16, which summarises the results from the endorsement experiment, we see that a high proportion of both female and male respondents were strongly in support of FGM/C abandonment programmes regardless of who endorsed them. However, among the few who would oppose them, we noted that more males than females reported that they would oppose these programmes irrespective of who endorsed them (7–11% vs 3%, $p < 0.05$).

Figure 16. Support for a programme by community elders (traditional), government, and religious leaders to educate parents about FGM/C and convince them not to cut their daughters.



The endorsement experiment results by disaggregated by ethnicity and gender are presented in Table A11. Over 85% of respondents from the Borana, Somali, Maasai, and Kisii communities indicated that they would support or strongly support abandonment programmes regardless of who endorsed them. Among respondents from the Samburu community, 75% of females indicated that they would support or strongly support such programmes while only 32% of males would. Particularly, 48% of males and 25% of females would oppose or strongly oppose it. A similar pattern was seen when they were asked whether they would support the programme if it were endorsed by community elders, the Kenyan government, or religious leaders.

Among respondents from the Borana community, a majority would support such programmes regardless of who endorsed them. However, 11% of the females and 8% of the males would oppose such programmes even if they did not know who supported it. If the programme was supported by the community elders, the proportion of Borana male respondents who would oppose or strongly oppose it doubled to 16% while that of female slightly increased to 15%. All respondents from the Kisii community indicated that they would support or strongly support abandonment programmes even if they did not know who endorsed them. However, 13% of Kisii males indicated that they would oppose the programme if they knew community leaders had endorsed the programme. Similarly, 16% of Kisii males indicated that they would oppose the programme if they knew the programme was endorsed by the Kenyan government. A greater proportion of Kisii males than females indicated that they would oppose the programme if it was endorsed by community leaders or the Kenyan government.

Discussion

The objectives of this study were to assess the extent to which people obey the law on FGM/C; to investigate the reasons and causes that motivate people born into a tradition of FGM/C to obey or not to obey a law prohibiting FGM/C; and to establish the legal, policy, and programme responses, across varying contexts, that would most effectively reduce the practice of FGM/C. The findings indicate that criminal law plays an instrumental role in addressing FGM/C, because the fear of criminal sanctions is a motivating factor for people to obey the law. However, the fear of criminal sanctions for those who are caught might also have the effect of pushing the practice underground and into secrecy. As was noted from our list experiment, 13% of survey respondents indicated that they would cut their daughter or granddaughter in the future, despite there being a law that prohibits the practice. Hence, despite their knowledge of the law, people are still willing to continue with an illegal act. We can infer, therefore, that the only option available to them and in order to avoid the law is to go underground and cut in secrecy.

Our findings also show that religion and custom/tradition influence the decisions that individuals make concerning FGM/C. We see that in plural legal settings, where formal law is likely to conflict with religion and custom, individuals are likely to make decisions that are aligned with one or the other system. It is therefore not a given that in situations where formal law conflicts with religion or custom, individuals will decide to obey the formal law. They might make the decision to comply with either religion or custom at the expense of formal law, especially where they feel that the formal law is oppressive; was not enacted following a participatory process; or where there are internal failures within the formal law system itself, for example, if laws are poorly enforced, if there is corruption, or if the enforcement authorities do not themselves abide by the law. In addition, we found that in Kenya, individuals generally prefer conflict-resolution mechanisms offered under customary law, and it is only in situations where these mechanisms fail that they then opt for processes under formal law. This is key, because for criminal matters, the legal system is structured in such a way as to only permit and recognise mechanisms under formal law. Thus, while individuals might prefer a process where they seek assistance first under customary law, moving to formal law only upon the failure of customary law, such a process is

neither provided for nor permitted under Kenya's legal system. Since FGM/C is a criminal law matter, this then means that the only recognised mechanism for dealing with it is under formal law.

Further, we saw that in the case of FGM/C, there was a feeling among some respondents that the anti-FGM/C law conflicts with their religious and customary beliefs, and further that it is oppressive to the extent that it denies and downplays the cultural significance of FGM/C. From this, we can infer that some individuals might then make the decision not to comply with the anti-FGM/C law because of the conflict between the formal law and religious or customary beliefs. The implication here is that it is necessary to find meaningful ways of addressing the inherent conflicts between the anti-FGM/C law in Kenya and religion and customs, which are also recognised as sources of law.

This means that people will be more likely to obey a formal law (possibly even one that conflicts with religion or customs) if the formal law is internally cohesive and provides adequate room for cultural pride. Further, where a law is made using a top-down approach, it is likely that this law will not inspire compliance among citizens. Hence, the making of law ought to be based on a participatory process, taking a bottom-up approach and respecting the aspirations of ordinary people. Since the anti-FGM/C law in Kenya has already been passed, it might be useful to design approaches that allow for citizens to buy into the law. These would entail approaches that do not necessarily use the fear-of-punishment message, but which adopt messaging that aims to have people feel that they have been involved in the enforcement and implementation processes of the law.

Our findings suggest that while cultural practises find expression in communal practises, the motivations for following customs are themselves individual. Thus, if a law is enacted that criminalises conduct that is not rooted in custom and the community begins to follow that law, it is likely that the communal obedience of the law will have a significant impact on individual choice to obey the law. On the other hand, where criminalised conduct is rooted in custom, communal obedience of the law might not necessarily impact individual choice to obey the law, and this may be attributed to the fact that such a law would be in conflict with the custom upon which the conduct is rooted. Thus, the conflict between law and custom would necessarily have to be addressed to influence the individual choice to obey the law.

Our findings also suggest that internal failures of the formal law system need to be addressed to give the formal law system social legitimacy. Although formal law was reported to have a number of advantages—for example it is binding, it restores order, it provides for stiffer penalties, and it treats all people equally—it is not a preferred option because of the following disadvantages: there is corruption in administering justice, the formal legal process is long and time-consuming, it is expensive, and, in most instances, believed to bring about division between the parties.

We also saw significant variation by gender and by ethnicity among the population that was studied. This indicates that approaches to anti-FGM/C programmes ought to be designed in a manner that is differentiated by gender and by ethnicity. Consequently, what might work for women in one part of the country might not work for men in a different part of the country. Still, even in the same community, the male and female aspirations and level of knowledge differ and all anti-FGM/C activities must be privy to these differences.

Our findings also suggest that a majority of the study population have significantly high levels of awareness concerning various aspects of FGM/C. Thus, the majority are aware that FGM/C is illegal; are also aware of the harmful effects of FGM/C; would report cases of FGM/C to the chief, suggesting that there is awareness of where to seek assistance; and are also aware of the conflicts between the formal anti-FGM/C law and their religious or customary beliefs. Further, our

findings suggest that knowledge of the harmful effects of FGM/C has influenced changing trends in the practice. Thus, for instance, respondents reported that FGM/C is not likely to be performed on young girls, but at the same time they also indicated that adult women might be cut. The trend of cutting adult women has been reported widely in Kenya by the media and it is also at the heart of the constitutional petition challenging the constitutionality of the Prohibition of FGM Act. We can, therefore, make the inference that lack of awareness (of harmful effects of FGM/C and of the law prohibiting the practice) is not the primary reason why people fail to obey the law. This means that in designing sensitisation programmes, the issues around which to raise awareness should not be limited to the harmful effects of FGM/C and/or the law prohibiting FGM/C. Other key issues ought to be included in sensitisation approaches, for example, highlighting how the anti-FGM/C law might be aligned to religion or custom, because from our findings, the conflict between formal law on the one hand and customary and religious law on the other influences the decisions made concerning FGM/C. It would be useful to address this conflict during sensitisation campaigns.

Of great significance is the finding that individuals are likely to provide less accurate information with regard to FGM/C as compared with other criminalised conduct such as riding on a motorbike without a helmet, which is a traffic offence, or paying a bribe to the police. Our findings here indicated that respondents were less forthcoming with information about FGM/C, but were more willing to provide information about the other two. The only difference between FGM/C and the other two is that FGM/C is rooted in tradition and is practised for cultural reasons. Further, we found that the criminalisation of FGM/C and the fear of penal sanctions might be pushing the practice into secrecy and individuals therefore do not talk freely about the practice. This suggests that criminalisation of FGM/C and the fear of penal sanctions might actually influence people to provide inaccurate information when directly questioned about FGM/C, indicating the possibility of false self-reporting among communities where FGM/C is practised.

Overall, these findings suggest that FGM/C may become less common in the general Kenyan population. They also allay concerns that legal prohibition of FGM/C only drives the practice underground as the estimated proportion of respondents who intend to practise FGM/C is relatively low. That said, it is important to note that efforts to reduce FGM/C, by way of law and other instruments, have been far less effective among particular ethnic groups. Finally, the findings presented thus far also suggest where authorities and civil society should focus future efforts if they hope to end the practice.

Limitations

While this study set out to investigate the incidence of depressed self-reporting in DHS data by means of the list experiment, our findings do not provide statistics on current FGM/C prevalence for purposes of comparison with DHS data. What we have instead is an estimation of the percentage of people in the study population who are likely to carry out FGM/C in the future, despite the existence of a law prohibiting the practice. This is still an important finding as it provides data about future activity, and thus is useful for purposes of programmatic interventions.

From our findings, we are not able to determine whether there is a causal relationship between the anti-FGM/C law on the one hand, and declining FGM/C prevalence. What we can highlight, however, is that penal sanctions in and of themselves are not likely to cause compliance with the anti-FGM/C law. Religion and custom play an important role in influencing people's decision either to comply with the law or not to, thus, these factors are also likely to have an impact on the prevalence of FGM/C.

Conclusion

From our findings we can conclude that while criminal law is important in efforts aimed at the abandonment of FGM/C, its effectiveness is curtailed by other factors. The factors include conflicts between formal criminal law on the one hand and religion and custom on the other; and the internal failures within the criminal law system. These factors ought to be addressed in order to enhance the effectiveness of criminal law. More important is the need to give formal criminal law some level of social legitimacy, by ensuring that the process of developing the law is not only participatory but respects the aspirations and dignity of the people. Their participation and input are critical and must always be sought.

Implications for policy/programmes/research

The findings from this study indicate that while fear of legal sanctions is a key factor in motivating people to obey the law, this in itself might not have the desired effect of having people comply with the law. Fear of legal sanctions can also cause people to develop mechanisms that help them to evade the law. In the case of FGM/C in Kenya, people in practising communities have developed mechanisms to enable them to evade the law, including under-reporting FGM/C and carrying out the practice in secret. In light of this key finding, this study makes the specific recommendation that Kenya's legal framework on the prohibition of FGM/C should be reviewed with the aim of making it more acceptable to practising communities, so that they can buy into the law and ultimately comply with it. Such a review of the law can be achieved in the following ways:

- Research should be conducted to obtain the views of key stakeholders in practising communities (these include community leaders, religious leaders, women's groups, youth groups, and CBOs involved in the fight against FGM/C) on the issues within the legal framework prohibiting FGM/C in Kenya that require review and how such a review ought to be done.
- Research should be conducted to obtain the views of law enforcement officials (including police officers, prosecutors, and judicial officers) on the issues within Kenya's legal framework on the prohibition of FGM/C that make enforcement of the law difficult, and proposals as to how these might be addressed.
- Proposals from the findings of the research activities suggested above should be made to relevant stakeholders, and in particular, the law reform commission, which is mandated to review all laws in Kenya and to initiate processes of law reform.
- Reform of Kenya's anti-FGM/C law should take a bottom-up approach and at all key stages, communities should be involved and their views taken into account through targeted public-participation strategies.

In addition to these specific recommendations, we make the following general recommendations:

Programmatic implications

Interventions aimed at ensuring implementation of the law:

- Should not be done in siloes but instead should target multiple groups, including government law enforcement officials, religious leaders, and community leaders. A key feature is creating a platform from which these different groups can have conversations and possibly learn from each other.
- Should be differentiated by gender and ethnicity.

- Should be tailor-made for specific communities—what works in one context might not necessarily work in another.

Policy implications

- There is a need to use innovative approaches to address the internal failures of formal law so as to increase the legitimacy of the law and therefore inspire greater compliance with it by citizens.
- There is a need to design enforcement and implementation programmes in a more participatory manner by taking a bottom-up approach.
- There is a need to address the conflict between formal law on the one hand and religion and custom on the other hand to achieve social legitimacy within formal criminal law.

Research implications

- Our research suggests that FGM/C prevalence needs to be investigated employing methods that use indirect means of questioning because of the tendency to under-report criminalised conduct that is rooted in tradition, such as FGM/C.
- Further research into how social legitimacy might be achieved for the formal criminal law that prohibits FGM/C is necessary in order to inform policy interventions aimed at ensuring the implementation and enforcement of the law.

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Appendix: Supplementary tables

Table A2. Conflict-resolution mechanisms for each type of dispute

	Disputes over land (N=486)	Domestic disputes (N=303)	Disputes over debts (N=24)	Political disputes (N=54)	Ethnic disputes (N=152)	Other (N=181)	Total (N=1200)
National government	41.6	34.3	25.0	44.4	15.1	29.3	34.3
County government	7.6	8.3	16.7	14.8	5.9	7.7	8.1
Religious authorities	7.0	5.0	4.2	7.4	2.0	4.4	5.4
Community elders	41.2	49.5	45.8	29.6	75.7	52.5	48.9
Somebody else	1.4	2.0	4.2	3.7	0.7	2.8	1.8
Don't know	1.2	1.0	4.2	0.0	0.7	3.3	1.4

Table A3. Types of disputes and existing conflict-resolution mechanisms in Kenya by ethnicity and gender

	Borana F (N=103)		Kipsigis F (N=102)		Kisii F (N=95)		Maasai F (N=98)		Samburu F (N=98)		Somali F (N=97)	
	M (N=100)	M (N=100)	M (N=100)	M (N=99)	M (N=98)	M (N=100)	M (N=98)	M (N=100)	M (N=97)	M (N=100)		
<i>Types of Disputes</i>												
Over land	47.6	74.0	35.3	32.0	47.4	31.3	44.9	33.0	7.1	37.0	58.8	84.0
Domestic	24.3	10.0	16.7	49.0	23.2	43.4	15.3	58.0	0.0	1.0	16.5	3.0
Over debts	0.0	1.0	10.8	0.0	2.1	6.1	1.0	0.0	0.0	0.0	2.1	0.0
Political	20.4	6.0	2.9	2.0	0.0	3.0	1.0	2.0	0.0	0.0	11.3	5.0
Ethnic	7.8	8.0	5.9	0.0	0.0	3.0	0.0	0.0	61.2	48.0	11.3	8.0
Other	0.0	1.0	28.4	17.0	27.4	13.1	37.8	7.0	31.6	14.0	0.0	0.0
<i>Existing Community level conflict-resolution mechanisms</i>												
National government	63.1	45.0	8.8	20.0	56.8	50.5	51.0	61.0	9.2	2.0	43.3	1.0
County government	7.8	3.0	10.8	3.0	1.1	15.2	14.3	11.0	1.0	4.0	26.8	0.0
Religious authorities	5.8	4.0	3.9	4.0	9.5	5.1	4.1	1.0	0.0	0.0	11.3	17.0
Community elders	23.3	48.0	74.5	69.0	19.0	26.3	23.5	26.0	86.7	94.0	13.4	82.0
Somebody else	0.0	0.0	2.0	0.0	6.3	3.0	4.1	1.0	1.0	0.0	4.1	0.0
Don't know	0.0	0.0	0.0	4.0	7.4	0.0	3.1	0.0	2.0	0.0	1.0	0.0

Table A4. Knowledge about legality/illegality of FGM/C by ethnicity and by gender

	Borana		Kipsigis		Kisii		Maasai		Samburu		Somali	
	F (N=103)	M (N=100)	F (N=102)	M (N=100)	F (N=95)	M (N=99)	F (N=98)	M (N=100)	F (N=98)	M (N=100)	F (N=97)	M (N=100)
Familiar with FGM/C (Yes)	100.0	100.0	99.2	100.0	100.0	100.0	96.9	97.0	100.0	100.0	100.0	100.0
<i>Is FGM/C legal in Kenya</i>												
Yes	0.0	0.0	0.0	2.0	1.1	2.0	0.0	5.2	1.0	13.0	8.3	1.0
No	100.0	100.0	99.0	98.0	97.9	96.0	100.0	94.9	92.9	62.0	89.7	98.0
Don't know	0.0	0.0	1.0	0.0	1.1	2.0	0.0	0.0	6.1	23.0	2.1	1.0
Refused to answer	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2.0	0.0	0.0
Familiar with Riding on a motorbike without a helmet (Yes)	100.0	100.0	97.1	100.0	100.0	98.0	93.9	99.0	78.6	81.0	99.0	100.0
<i>Is riding on a motorbike without a helmet legal in Kenya</i>												
Yes	0.0	0.0	0.0	4.0	3.2	0.0	1.1	6.3	1.3	1.2	6.3	2.0
No	100.0	100.0	100.0	95.0	90.5	100.0	96.7	92.7	79.2	75.3	79.2	97.0
Don't know	0.0	0.0	0.0	1.0	6.3	0.0	2.2	1.0	19.5	23.5	14.6	1.0
Familiar with paying police bribe to avoid punishment (Yes)	87.4	99.0	95.1	96.0	90.5	97.0	93.9	88.0	58.2	67.0	92.8	100.0
<i>Is paying police a bribe to avoid punishment legal in Kenya</i>												
Yes	1.1	0.0	4.1	4.2	0.0	0.0	0.0	5.9	10.5	6.0	8.9	2.0
No	98.9	100.0	91.8	94.8	100.0	100.0	100.0	92.9	77.2	74.6	85.6	98.0
Don't know	0.0	0.0	4.1	1.0	0.0	0.0	0.0	1.2	12.3	19.4	5.6	0.0

Table A5. Source of information about customary and formal law about FGM/C in Kenya, by ethnicity and by gender

Source of information about:	Borana		Kipsigis		Kisii		Maasai		Samburu		Somali	
	F (N=103)	M (N=100)	F (N=102)	M (N=100)	F (N=95)	M (N=99)	F (N=95)	M (N=97)	F (N=98)	M (N=100)	F (N=97)	M (N=100)
<i>Formal law</i>												
Radio	14.6	22.0	70.6	73.0	51.6	45.5	61.2	78.0	33.7	29.0	15.5	29.0
Television	82.5	31.0	2.9	3.0	9.5	12.1	6.1	5.0	2.0	4.0	56.7	54.0
Newspaper/magazines	1.0	26.0	0.0	1.0	0.0	7.1	3.1	2.0	0.0	0.0	0.0	10.0
Family/friends	1.9	1.0	4.9	1.0	2.1	0.0	1.0	0.0	23.5	10.0	9.3	0.0
Observation	0.0	0.0	0.0	0.0	1.1	3.0	4.1	0.0	1.0	2.0	0.0	0.0
Elected officials	0.0	5.0	1.0	1.0	0.0	0.0	1.0	0.0	0.0	0.0	1.0	0.0
Community elders	0.0	1.0	4.9	2.0	3.2	0.0	2.0	0.0	20.4	2.0	1.0	0.0
Chief/assistant chief	0.0	8.0	2.0	1.0	28.4	28.3	1.0	0.0	10.2	23.0	8.3	4.0
NGOs	0.0	1.0	2.0	0.0	0.0	0.0	16.3	9.0	0.0	0.0	0.0	0.0
Police	0.0	1.0	4.9	6.0	2.1	0.0	1.0	0.0	0.0	0.0	1.0	0.0
Other	0.0	4.0	6.9	12.0	2.1	4.0	3.1	6.0	9.2	10.0	7.2	3.0
Don't know	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	20.0	0.0	0.0
<i>Customary law</i>												
Radio	8.7	0.0	8.8	2.0	0.0	0.0	11.2	0.0	0.0	4.0	3.1	0.0
Television	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0	3.1	0.0
Family/friends	3.9	0.0	37.3	0.0	0.0	1.0	39.8	1.0	8.2	3.0	19.6	0.0
Observation	0.0	0.0	2.0	4.0	1.1	2.0	1.0	13.0	7.1	0.0	0.0	0.0
Elected officials	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Community elders	87.4	97.0	42.2	83.0	69.5	61.6	39.8	80.0	72.5	79.0	33.0	100.0
Religious authorities	0.0	0.0	2.0	0.0	0.0	0.0	2.0	0.0	1.0	0.0	0.0	0.0
Chief/assistant chief	0.0	0.0	2.0	1.0	27.4	31.3	4.1	1.0	7.1	2.0	6.2	0.0
NGOs	0.0	3.0	0.0	4.0	0.0	1.0	0.0	3.0	0.0	0.0	30.9	0.0
Other	0.0	0.0	4.9	6.0	1.1	1.0	0.0	1.0	4.1	9.0	4.1	0.0
Don't know	0.0	0.0	1.0	0.0	1.1	2.0	2.0	1.0	0.0	2.0	0.0	0.0

Table A6. Motivations for obeying Kenya's formal law, by ethnicity and by gender

	Borana		Kipsigis		Kisii		Maasai		Samburu		Somali	
	F (N=103)	M (N=100)	F (N=101)	M (N=100)	F (N=95)	M (N=99)	F (N=95)	M (N=97)	F (N=98)	M (N=100)	F (N=97)	M (N=100)
<i>What motivates YOU most to follow the formal law?</i>												
Respect for the law	81.6	70.0	54.9	61.0	51.6	48.5	72.5	68.0	48.0	43.0	47.4	81.0
Pleasure from following one's conscience	4.9	3.0	12.8	0.0	12.6	19.2	12.2	2.0	2.0	0.0	3.1	0.0
Social esteem	0.0	1.0	1.0	0.0	0.0	2.0	0.0	4.0	6.1	0.0	0.0	0.0
Fear of legal punishment	13.6	25.0	21.6	27.0	33.7	26.3	9.2	20.0	21.4	13.0	47.4	18.0
Fear of guilty conscience	0.0	0.0	2.0	0.0	0.0	1.0	1.0	2.0	0.0	1.0	1.0	1.0
Fear of social punishment	0.0	1.0	0.0	0.0	1.1	2.0	0.0	1.0	2.0	7.0	0.0	0.0
Other	0.0	0.0	6.9	12.0	1.1	1.0	2.0	2.0	15.3	24.0	0.0	0.0
Don't know	0.0	0.0	1.0	0.0	0.0	0.0	2.0	0.0	4.1	12.0	1.0	0.0
<i>What motivates OTHERS most to follow the formal law?</i>												
Respect for the law	75.7	75.0	50.0	53.0	42.1	26.3	45.9	16.0	56.1	40.0	18.6	50.0
Pleasure from following one's conscience	2.9	0.0	2.9	0.0	11.6	16.2	6.1	5.0	1.0	0.0	1.0	1.0
Social esteem	1.9	1.0	2.0	1.0	0.0	2.0	5.1	12.0	2.0	0.0	62.9	49.0
Fear of legal punishment	18.5	23.0	31.4	38.0	34.7	51.5	22.5	63.0	27.6	14.0	1.0	0.0
Fear of guilty conscience	0.0	0.0	2.0	0.0	0.0	1.0	4.1	2.0	1.0	0.0	0.0	0.0
Fear of social punishment	0.0	1.0	0.0	0.0	1.1	0.0	1.0	1.0	2.0	9.0	0.0	0.0
Other	0.0	0.0	5.9	4.0	1.1	0.0	1.0	0.0	5.1	18.0	0.0	0.0
Don't know	1.0	0.0	4.9	4.0	9.5	3.0	13.3	1.0	5.1	19.0	16.5	0.0

Table A7. Proportion of respondents citing various situations when disobeying Kenya's formal law and community customs is permissible, by ethnicity and gender

	Borana		Kipsigis		Kisii		Maasai		Samburu		Somali	
	F (N=103)	M (N=100)	F (N=101)	M (N=100)	F (N=95)	M (N=99)	F (N=95)	M (N=97)	F (N=98)	M (N=100)	F (N=97)	M (N=100)
<i>Reasons people would say that disobeying Kenya's formal law is permissible</i>												
Contradiction with religion	11.7	5.0	5.9	10.0	0.00	25.3	4.1	18.0	0.0	1.0	66.0	87.0
Contradiction with custom	6.8	9.0	6.9	49.0	16.8	3.0	4.1	18.0	39.8	34.0	15.5	7.0
I do not agree with the law	34.0	1.0	34.3	60.0	3.2	10.1	23.5	5.0	0.0	7.0	0.0	3.0
Authorities do not respect the law	62.1	73.0	10.8	65.0	37.9	45.5	6.1	17.0	11.2	6.0	3.1	6.0
No penalties in case on non-application	5.8	30.0	2.9	3.0	9.5	15.2	7.1	6.0	5.1	3.0	22.7	1.0
Other	0.0	18.0	20.6	21.0	6.3	39.4	14.3	39.0	22.5	22.0	1.0	1.0
Don't know	0.0	0.0	23.5	1.0	28.4	2.0	42.9	17.0	21.4	41.0	11.3	2.0
<i>Reasons people would say that disobeying community customs is permissible</i>												
Contradiction with religion	77.7	54.0	49.0	57.0	3.2	26.3	6.1	66.0	1.0	3.0	75.3	95.0
Contradiction with the formal law	7.8	11.0	12.8	68.0	25.3	18.2	31.6	34.0	7.1	13.0	9.3	36.0
Too restrictive	37.9	57.0	2.9	24.0	40.0	50.5	18.4	0.0	41.8	5.0	34.0	2.0
Inter-mixing with customs from a different ethnic community	19.4	26.0	1.96	47.0	8.4	8.1	2.0	6.0	5.1	2.0	7.2	0.0
Other	0.0	3.0	23.5	22.0	3.2	29.3	10.2	14.0	34.7	33.0	2.1	0.0
Don't know	0.0	0.0	16.7	3.0	20.0	8.1	37.8	5.0	13.3	47.0	5.2	0.0

Table A8. Acceptability of disobeying Kenyan formal law, by ethnicity and by gender

	Borana		Kipsigis		Kisii		Maasai		Samburu		Somali	
	<i>F</i> (N=103)	<i>M</i> (N=100)	<i>F</i> (N=101)	<i>M</i> (N=100)	<i>F</i> (N=95)	<i>M</i> (N=99)	<i>F</i> (N=95)	<i>M</i> (N=97)	<i>F</i> (N=98)	<i>M</i> (N=100)	<i>F</i> (N=97)	<i>M</i> (N=100)
<i>Is it acceptable to break Kenyan formal law:</i>												
If this law is clearly against one's moral principles?												
Yes	46.6	31.0	25.5	17.0	8.4	10.1	14.3	56.0	13.3	18.0	93.8	65.0
No	50.5	68.0	72.6	82.0	91.6	89.9	85.7	44.0	83.7	62.0	5.2	32.0
Don't know	2.9	0.0	2.0	1.0	0.0	0.0	0.0	0.0	0.0	1.0	0.0	0.0
Refused to answer	0.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0	3.1	19.0	1.0	3.0
If one would find it too costly to obey this law?												
Yes	35.0	26.0	25.5	27.0	3.2	7.1	16.3	33.0	16.3	27.0	85.6	47.0
No	64.1	73.0	69.6	73.0	96.8	91.9	80.6	67.0	78.6	58.0	14.4	50.0
Don't know	1.0	1.0	4.9	0.0	0.0	1.0	1.0	0.0	2.0	0.0	0.0	2.0
Refused to answer	0.0	1.0	0.0	0.0	0.0	0.0	2.0	0.0	3.1	15.0	0.0	1.0
If one knows that this law is not enforced?												
Yes	22.3	16.0	24.5	50.0	4.2	7.1	11.2	24.0	20.4	34.0	94.9	34.0
No	77.7	83.0	72.6	50.0	94.7	92.9	86.7	74.0	76.5	55.0	4.1	65.0
Don't know	0.0	1.0	2.9	0.0	1.1	0.0	0.0	1.0	3.1	11.0	0.0	1.0
Refused to answer	0.0	0.0	0.0	0.0	0.0	0.0	2.0	1.0	0.0	0.0	1.0	0.0
If one knows that most of the people he or she knows best do not follow this law?												
Yes	20.4	15.0	11.8	61.0	0.0	6.1	9.2	16.0	8.2	26.0	49.5	40.0
No	79.6	84.0	81.4	38.0	100.0	92.9	88.8	84.0	91.8	64.0	49.5	60.0
Don't know	0.0	1.0	6.9	1.0	0.0	1.0	1.0	0.0	0.0	1.0	1.0	0.0
Refused to answer	0.0	0.0	0.0	0.0	0.0	0.0	1.0	0.0	0.0	9.0	0.0	0.0
If one knows that most of the people he or she knows best would approve of breaking this law?												
Yes	18.5	11.0	9.8	36.0	0.0	4.0	12.2	13.0	12.2	19.0	46.4	38.0
No	81.6	89.0	87.3	64.0	100.0	96.0	84.7	86.0	87.8	65.0	51.6	61.0
Don't know	0.0	0.0	2.9	0.0	0.0	0.0	3.1	1.0	0.0	1.0	2.1	1.0
Refused to answer	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	15.0	0.0	0.0
If one does not know about this law?												
Yes	34.0	10.0	17.7	61.0	5.3	23.2	14.3	38.0	20.4	75.0	95.9	52.0
No	66.0	89.0	69.6	38.0	93.7	74.8	82.7	62.0	77.6	14.0	3.1	46.0
Don't know	0.0	1.0	12.8	1.0	1.1	2.0	3.1	0.0	0.0	1.0	1.0	2.0
Refused to answer	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2.0	10.0	0.0	0.0
If one thinks that this law was made without representing the interests of people like him or her?												
Yes	88.4	31.0	23.5	62.0	22.1	11.1	15.3	22.0	16.3	67.0	80.4	43.0
No	11.7	68.0	73.5	38.0	76.8	88.9	80.6	78.0	79.6	32.0	18.6	57.0
Don't know	0.0	1.0	2.9	0.0	1.1	0.0	4.1	0.0	4.1	1.0	1.0	0.0
If one thinks this law is enforced unfairly?												
Yes	92.2	34.0	38.2	74.0	23.2	30.3	20.4	34.0	24.5	84.0	97.9	62.0
No	7.8	65.0	58.8	26.0	72.6	67.7	73.5	66.0	74.5	13.0	2.1	36.0
Don't Know	0.0	1.0	2.9	0.0	4.2	2.0	1.0	0.0	1.0	3.0	0.0	2.0
Refused to answer	0.0	0.0	0.0	0.0	0.0	0.0	5.1	0.0	0.0	0.0	0.0	0.0

Table A9. Proportion of respondents who believe that people in their community practise FGM/C, by ethnicity and gender

	Borana		Kipsigis		Kisii		Maasai		Samburu		Somali	
	F (N=103)	M (N=100)	F (N=101)	M (N=100)	F (N=95)	M (N=99)	F (N=95)	M (N=97)	F (N=98)	M (N=100)	F (N=97)	M (N=100)
<i>Do you think that people in your community practise FGM/C?</i>												
Yes	50.5	98.0	3.0	27.0	59.0	34.3	37.9	25.8	95.9	97.0	95.9	76.0
No	49.5	2.0	96.0	73.0	35.8	62.6	60.0	73.2	2.0	1.0	2.1	14.0
Don't know	0.0	0.0	1.0	0.0	5.3	3.0	2.1	1.0	2.0	0.0	2.1	10.0
Refused to answer	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2.0	0.0	0.0
<i>Do you think that people in your community practise riding a motorbike without a helmet?</i>												
Yes	90.1	100.0	74.8	99.0	99.0	99.0	92.3	99.0	93.6	93.8	100.0	98.0
No	9.9	0.0	23.2	1.0	1.0	1.0	7.7	1.0	6.4	6.3	0.0	2.0
Don't know	0.0	0.0	2.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<i>Do you think that people in your community practise paying police a bribe to avoid punishment?</i>												
Yes	95.6	100.0	60.8	96.9	96.4	93.8	84.6	88.2	89.7	75.8	100.0	100.0
No	3.3	0.0	26.8	0.0	2.3	3.1	11.0	8.2	3.5	12.1	0.0	0.0
Don't know	1.1	0.0	12.4	3.1	2.3	3.1	4.4	3.5	6.9	12.1	0.0	0.0
Refused to answer												
<i>How many girls in your community do you think are cut?</i>												
All girls	0.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0	50.0	20.0	25.8	0.0
Most girls	39.8	60.0	4.0	1.0	29.5	26.3	12.6	1.0	29.6	69.0	52.6	64.0
Some girls	4.9	24.0	0.0	3.0	23.2	18.2	10.5	4.1	9.2	8.0	14.4	14.0
A few girls	50.5	10.0	2.0	15.0	10.5	24.2	36.8	36.1	3.1	0.0	4.1	10.0
No girl	4.9	0.0	94.1	78.0	20.0	21.2	36.8	54.6	5.1	0.0	1.0	0.0
Don't know	0.0	5.0	0.0	3.0	16.8	10.1	3.2	4.1	3.1	3.0	2.1	12.0
<i>How many women in your community do you think are cut?</i>												
All women	74.8	46.0	6.9	3.0	40.0	3.0	17.9	5.2	69.4	76.0	79.4	32.0
Most women	25.2	46.0	45.5	77.0	51.6	60.6	68.4	33.0	29.6	20.0	18.6	68.0
Some women	0.0	5.0	25.7	9.0	4.2	23.2	8.4	17.5	0.0	1.0	2.1	0.0
A few women	0.0	1.0	14.9	6.0	1.1	2.0	3.2	16.5	0.0	0.0	0.0	0.0
No woman	0.0	1.0	5.9	5.0	0.0	2.0	0.0	24.7	0.0	0.0	0.0	0.0
Don't know	0.0	1.0	1.0	0.0	3.2	9.1	2.1	3.1	1.0	2.0	0.0	0.0

Table A10. Continuation/discontinuation of FGM/C, by ethnicity and gender

	Borana		Kipsigis		Kisii		Maasai		Samburu		Somali	
	F (N=103)	M (N=100)	F (N=101)	M (N=100)	F (N=95)	M (N=99)	F (N=95)	M (N=97)	F (N=98)	M (N=100)	F (N=97)	M (N=100)
<i>Why do you think people in your community continue to practise FGM/C?</i>												
Everyone else does it	1.9	1.0	0.0	1.0	0.0	8.1	0.0	0.0	16.3	1.0	2.1	2.0
Religious obligations	1.9	4.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	3.1	0.0
Tradition	96.1	94.0	10.9	93.0	92.6	75.8	80.0	90.7	74.5	93.0	91.8	94.0
There are few penalties for doing so			0.0	2.0	0.0	3.0	2.1	1.0	1.0	0.0	0.0	0.0
Other	0.0	1.0	57.4	3.0	0.0	9.1	10.5	4.1	7.1	2.0	3.1	1.0
Don't know	0.0	0.0	31.7	1.0	7.4	4.0	5.3	4.1	0.0	4.0	0.0	3.0
Refused to answer	0.0	0.0	0.0	0.0	0.0	0.0	2.1	0.0	1.0	0.0	0.0	0.0
<i>If everyone else in your community were to discontinue FGM/C, would you continue to do it?</i>												
Yes	3.9	7.0	2.0	1.0	2.1	6.1	0.0	2.1	19.4	33.0	18.6	5.0
No	96.1	93.0	98.0	98.0	97.9	92.9	100.0	97.9	78.6	58.0	81.4	95.0
Don't know	0.0	0.0	0.0	1.0	0.0	1.0	0.0	0.0	2.0	5.0	0.0	0.0
Refused to answer	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	4.0	0.0	0.0
<i>In your opinion, when someone is deciding whether to practise FGM/C, how much consideration do they give to whether or not others are doing it?</i>												
A lot of consideration	56.3	64.0	30.7	61.0	11.6	24.2	54.7	78.4	85.7	58.0	14.4	50.0
Some consideration	10.7	29.0	6.9	20.0	19.0	47.5	7.4	5.2	9.2	5.0	26.8	1.0
Not much consideration	25.2	5.0	5.9	5.0	6.3	9.1	3.2	3.1	1.0	5.0	29.9	18.0
No consideration	7.8	2.0	51.5	12.0	55.8	18.2	32.6	12.4	2.0	30.0	26.8	30.0
Don't Know	0.0	0.0	5.0	2.0	7.4	1.0	2.1	1.0	2.0	2.0	2.1	1.0
<i>Do you believe that FGM/C should continue, or should it be stopped?</i>												
Continued	10.7	4.0	5.0	8.0	2.1	5.1	0.0	3.1	29.6	63.0	13.4	5.0
Stopped	89.3	96.0	94.1	91.0	96.8	92.9	100.0	96.9	68.4	33.0	85.6	95.0
Don't know	0.0	0.0	1.0	1.0	1.1	2.0	0.0	0.0	1.0	3.0	1.0	0.0

Table A11. Social costs and benefits of FGM/C, by ethnicity and gender

	Borana		Kipsigis		Kisii		Maasai		Samburu		Somali	
	F	M	F	M	F	M	F	M	F	M	F	M
	(N=103)	(N=100)	(N=101)	(N=100)	(N=95)	(N=99)	(N=95)	(N=97)	(N=98)	(N=100)	(N=97)	(N=100)
<i>What would you do if you found out a neighbour was going to practise FGM/C?</i>												
Nothing	7.8	18.0	11.9	12.0	16.8	13.1	11.6	6.2	53.1	66.0	36.1	8.0
Call the telephone hotline	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0	0.0
Notify the police	7.8	4.0	3.0	5.0	2.1	13.1	5.3	4.1	1.0	0.0	0.0	11.0
Notify a social worker	0.0	18.0	0.0	1.0	1.1	0.0	1.1	0.0	7.1	1.0	1.0	0.0
Notify the chief	40.8	16.0	40.5	50.0	33.7	65.7	59.0	75.3	11.2	3.0	42.3	75.0
Notify the health worker	1.0	6.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Inform a local NGO	0.0	0.0	0.0	1.0	1.1	0.0	1.1	0.0	0.0	0.0	0.0	0.0
Talk to a family member	41.8	24.0	3.0	11.0	6.3	0.0	1.1	4.1	8.2	1.0	11.3	1.0
<i>In your opinion, is life in the village more difficult or less difficult for uncut women?</i>												
Much more difficult	4.9	9.0	8.9	20.0	1.1	2.0	5.3	9.3	78.6	70.0	30.9	29.0
Somewhat more difficult	3.9	17.0	5.9	0.0	31.6	15.2	1.1	6.2	8.2	23.0	11.3	3.0
Neither more or less difficult	3.9	14.0	40.6	1.0	33.7	22.2	45.3	33.0	6.1	1.0	2.1	4.0
Somewhat less difficult	1.0	13.0	1.0	3.0	1.1	6.1	3.2	3.1	1.0	0.0	16.5	11.0
Much less difficult	86.4	46.0	40.6	73.0	17.9	40.4	45.3	48.5	2.0	1.0	30.9	31.0
Don't know	0.0	1.0	3.0	3.0	14.7	14.1	0.0	0.0	4.1	5.0	8.3	22.0
<i>Would your neighbours approve or disapprove if you cut your daughter?</i>												
Approve strongly	2.9	0.0	2.0	2.0	0.0	0.0	4.2	0.0	54.1	49.0	22.7	0.0
Approve	6.8	3.0	2.0	5.0	11.6	21.2	1.1	6.2	29.6	38.0	62.9	3.0
Disapprove	48.5	81.0	38.6	20.0	80.0	63.6	16.8	54.6	11.2	7.0	4.1	70.0
Disapprove strongly	41.8	14.0	50.5	70.0	1.1	11.1	76.8	38.1	1.0	4.0	2.1	4.0
Don't know	0.0	2.0	6.9	3.0	7.4	4.0	1.1	1.0	3.1	0.0	8.3	23.0
Refused to answer	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0	2.0	0.0	0.0
Something else	1.0	14.0	39.6	20.0	36.8	8.1	19.1	10.3	16.3	23.0	6.2	5.0
Don't know	0.0	0.0	2.0	0.0	2.1	0.0	2.1	0.0	1.0	6.0	2.1	0.0

Table A12. Endorsement experiment: Proportion of those who would support or oppose an FGM/C abandonment programme targeting parents, by ethnicity and gender

	Borana		Kipsigis		Kisii		Maasai		Samburu		Somali	
	F	M	F	M	F	M	F	M	F	M	F	M
<i>Support or oppose regardless of who support/funds the programme</i>	N=27	N=25	N=23	N=25	N=24	N=25	N=24	N=25	N=24	N=25	N=23	N=25
Support strongly	48.2	64.0	96.0	80.0	12.5	48.0	87.5	80.0	41.7	0.0	17.4	32.0
Support	40.7	28.0	4.0	0.0	87.5	52.0	4.2	16.0	33.3	32.0	69.6	60.0
Oppose	11.1	8.0	0.0	4.0	0.0	0.0	4.2	4.0	8.3	20.0	13.0	8.0
Oppose strongly	0.0	0.0	0.0	12.0	0.0	0.0	4.2	0.0	16.7	28.0	0.0	0.0
Don't know	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	20.0	0.0	0.0
Refused to answer	0.0	0.0	0.0	4.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<i>Support or oppose programme supported by community elders</i>	F	M	F	M	F	M	F	M	F	M	F	M
	N=26	N=25	N=24	N=25	N=24	N=25	N=25	N=25	N=25	N=25	N=24	N=25
Support strongly	53.9	60.0	77.8	72.0	18.2	41.7	96.0	70.8	68.0	4.0	20.8	48.0
Support	30.8	24.0	14.8	4.0	81.8	45.8	4.0	20.8	20.0	28.0	58.3	52.0
Oppose	7.7	12.0	3.7	8.0	0.0	8.3	0.0	8.3	8.0	16.0	20.8	0.0
Oppose strongly	7.7	4.0	3.7	8.0	0.0	4.2	0.0	0.0	4.0	40.0	0.0	0.0
Don't know	0.0	0.0	0.0	8.0	0.0	0.0	0.0	0.0	0.0	12.0	0.0	0.0
<i>Support or oppose programme supported by Kenyan government</i>	F	M	F	M	F	M	F	M	F	M	F	M
	N=26	N=25	N=25	N=25	N=25	N=25	N=24	N=24	N=24	N=25	N=25	N=25
Support strongly	64.0	52.0	100.0	76.0	28.0	44.0	100.0	87.5	54.2	12.0	16.0	44.0
Support	24.0	20.0	0.0	16.0	68.0	40.0	0.0	8.3	20.8	24.0	76.0	52.0
Oppose	4.0	20.0	0.0	0.0	4.0	16.0	0.0	0.0	12.5	12.0	8.0	4.0
Oppose strongly	8.0	8.0	0.0	8.0	0.0	0.0	0.0	4.2	12.5	48.0	0.0	0.0
<i>Support or oppose programme supported by religious leaders</i>	F	M	F	M	F	M	F	M	F	M	F	M
	N=25	N=25	N=24	N=25	N=25	N=25	N=24	N=24	N=25	N=25	N=25	N=25
Support strongly	48.0	48.0	70.8	96.0	8.3	44.0	95.5	83.3	64.0	8.0	20.0	52.0
Support	44.0	44.0	25.0	0.0	83.3	52.0	4.6	12.5	20.0	20.0	60.0	48.0
Oppose	4.0	8.0	4.2	0.0	8.3	4.0	0.0	4.2	8.0	24.0	12.0	0.0
Oppose strongly	4.0	0.0	0.0	4.0	0.0	0.0	0.0	0.0	8.0	48.0	8.0	0.0