

Though living a security nightmare, Burundians find less fault with formal court system

Afrobarometer Dispatch No. 134 | Pauline M. Wambua and Carolyn Logan

Summary

After Burundi emerged from civil war in 2005, one of the government's priorities was to develop a professional and credible judicial system. Yet five years on, a Human Rights Watch report (2010) documented "Mob justice in Burundi: Official complicity and impunity," and subsequent reports have continued to highlight extra-judicial killings, torture, and disappearances blamed on Burundian security forces and political gangs (Human Rights Watch, 2016).

Perpetrators have enjoyed near-impunity from a weak judicial system pressured into silence or collaboration (Human Rights Watch, 2016). A notable example was described by former Constitutional Court Vice President Sylvère Nimpagaritse, who after fleeing to Rwanda said the high court's judges had come under "enormous pressure and even death threats" to rubber-stamp as legal a disputed third term for President Pierre Nkurunziza in 2015 (Guardian, 2015). The court's decision to allow Nkurunziza's candidacy became a flashpoint for popular protests and a symbol of a judicial system captured by an increasingly authoritarian government.

Against this background of mob justice and ineffectual courts, how do Burundians perceive their access to justice? Core elements that define citizens' access to justice include: 1) a supportive legal framework, 2) citizen awareness of their legal rights and responsibilities, 3) availability of legal advice and representation, 4) availability of affordable and accessible justice institutions, 5) the practice of fair procedures in those institutions, and 6) enforceability of decisions (American Bar Association, 2012). Afrobarometer Round 6 surveys included a special module that explored citizens' perceptions of the legal system, their access to it, and their experiences when engaging with it. (For findings across all surveyed countries, please see Afrobarometer Policy Paper No. 39 at www.afrobarometer.org.)

In Burundi, Round 6 data were collected in September and October 2014 – months before the constitutional crisis over Nkurunziza's third term and the discredited 2015 presidential election, but years into the country's nightmare of security abuses. Would respondents' views be different now?

At the time, Burundians' levels of trust in and contact with the courts were among the highest among 36 African countries surveyed in 2014/2015. While many respondents cited significant problems with the courts – including widespread corruption, long delays, and high costs – Burundians were somewhat less likely than other Africans, on average, to complain of encountering difficulties or having to pay bribes when they sought assistance from the courts.

To the extent that these findings reflect a popular endorsement of the court system, one possible interpretation might be citizens' preference for formal courts and the rule of law over informal and extra-judicial methods of dispensing "justice."

Afrobarometer survey

Afrobarometer is a pan-African, non-partisan research network that conducts public attitude surveys on democracy, governance, economic conditions, and related issues across Africa. After five rounds of surveys between 1999 and 2013, findings from Round 6 surveys (2014/2015) are currently being disseminated. Afrobarometer conducts face-to-face interviews in the language of the respondent's choice with nationally representative samples. Round 6 interviews with nearly 54,000 respondents in 36 countries represent the views of more than three-fourths of the continent's population.

The Afrobarometer team in Burundi, led by Groupe de Recherche et d'Appui au Développement des Initiatives Démocratiques, interviewed 1,200 adult Burundians in September and October 2014. A sample of this size yields results with a margin of error of +/- 3% at a 95% confidence level. One previous survey was conducted in Burundi in 2012.

Key findings

- In September-October 2014, seven in 10 citizens (71%) said they trust the courts "somewhat" or "a lot" (Figure 1). This is the fourth-best rating among the 36 countries surveyed, well above the average of 53% and the East Africa¹ average of 64%. The police could claim a similar level of public trust (74%) at the time. Most public institutions and leaders enjoyed even higher levels of public trust in Burundi, led by religious leaders (92%) and the army (90%) (Figure 2).
- Four in 10 Burundians (40%) say that "most" or "all" judges and magistrates are corrupt. This rating is about average for East Africa (39%) and somewhat higher than the average across 36 countries (33%) (Figure 3).
- About one in six Burundians (17%) had dealings with the courts in the five years preceding the survey (2009-2014), the eighth-highest contact rate among the 36 surveyed countries (Figure 4).
- Men are twice as likely as women to have contact with the courts, 23% vs. 11% (Figure 5). Respondents with a primary-school (19%) or higher education (23%) also have more dealings with the courts than those with no formal education (12%). The youngest (18-25 years old) and poorest respondents have slightly lower levels of contact with the courts than their older and less-poor counterparts.
- When asked why people might not take cases to the courts, Burundians say that the courts are too expensive (31%), that judges or court officials will demand money (16%), that the courts favour rich and powerful people (16%), that they don't expect fair treatment (14%), and that they don't trust courts (14%) (Figure 6).

¹ In addition to Burundi, Afrobarometer's East Africa grouping includes Kenya, Tanzania, and Uganda.

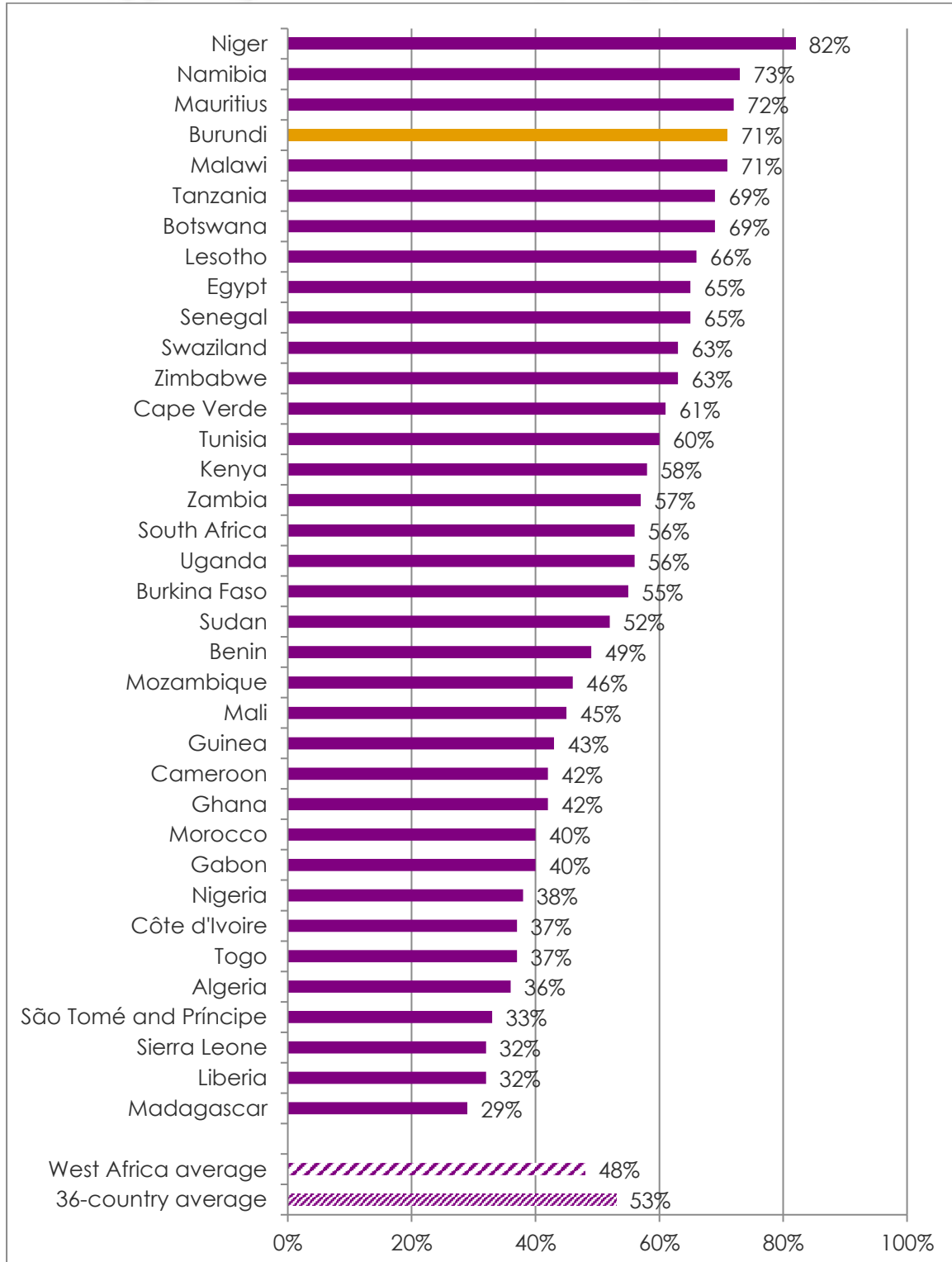
- Among Burundians who had contact with the courts² in the 12 months preceding the survey, 55% say it was “easy” or “very easy” to get the assistance they needed – about 10 percentage points higher than the East Africa and 36-country averages (Figure 7). Similarly, of those who had requested assistance from the police during the previous 12 months, 68% found it “easy” or “very easy” to get the help they needed – again better than the regional (47%) and 36-country (52%) averages.
- Of those who had contact with the police and/or courts during the previous year, about one in four say they paid a bribe to get assistance from the courts (23%) and/or to get assistance from or avoid problems with the police (28%) (Figure 8).
- Respondents who had interacted with the courts during the previous five years were asked which problems they encountered. Long delays are the most common problem, cited by 55% of respondents. High costs (37%), the complexity of the legal system (33%), inattentive judges (32%), and lack of legal advice (31%) are all common experiences as well (Figure 9). The proportion of Burundians who report experiencing each of these problems is somewhat lower than the regional and continental averages.

Do your own analysis of Afrobarometer data – on any question, for any country and survey round. It’s easy and free at www.afrobarometer.org/online-data-analysis.

² Responses to questions about ease of getting services, payment of bribes, and problems encountered when engaging with the court system are only among respondents who had contact with the judicial system, not all respondents. The smaller sample sizes mean that margins of uncertainty around reported numerical results are greater. Two different measures of contact were used. The first two questions, on ease of getting services and payment of bribes, asked respondents whether they had contact of any type with the courts in the past 12 months. The second set of questions, about problems encountered when engaging with the court system, asked respondents whether they or anyone in their family had been directly involved in a court case in the previous five years.

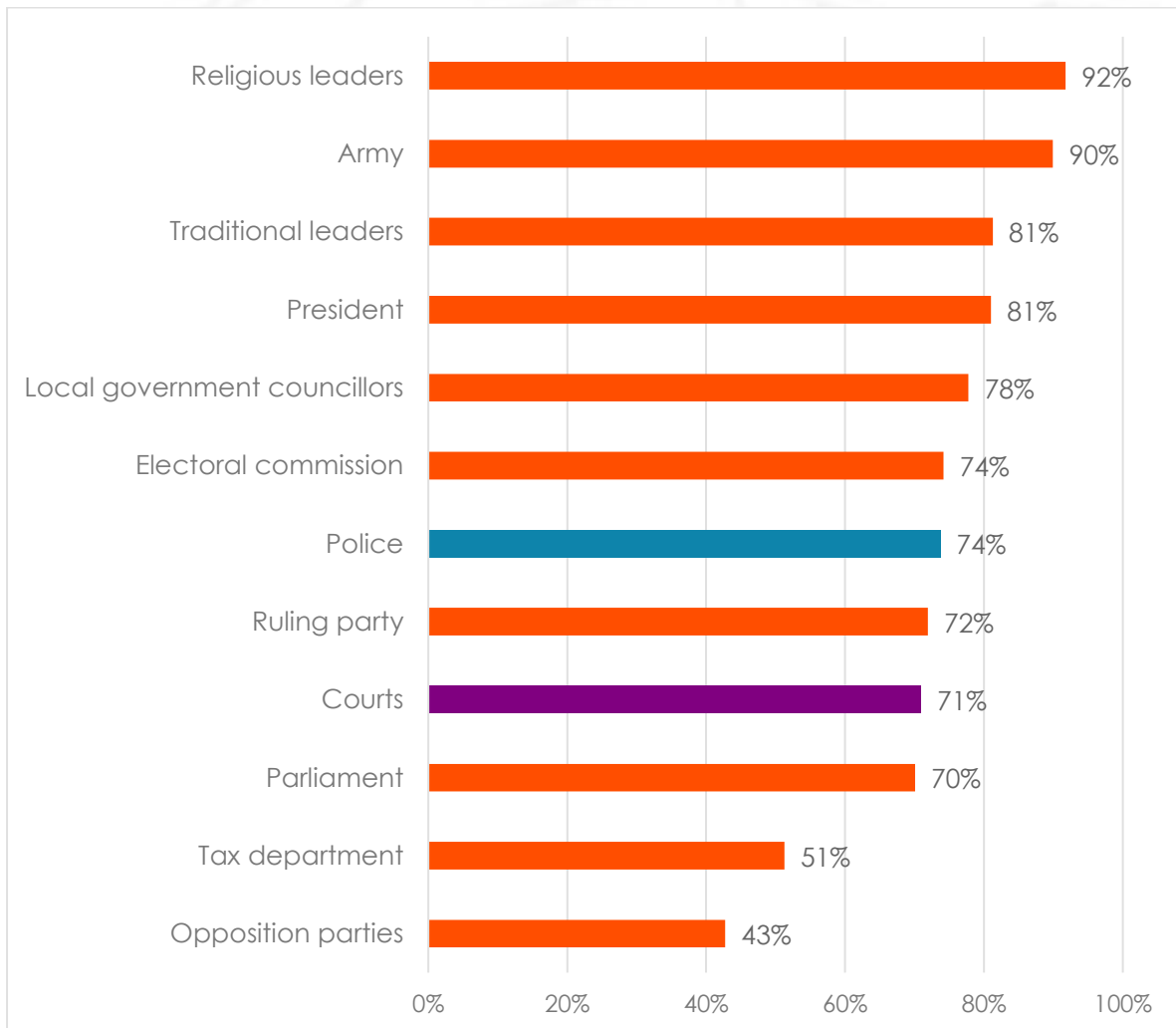
Figures

Figure 1: Trust in courts | 36 countries | 2014/2015



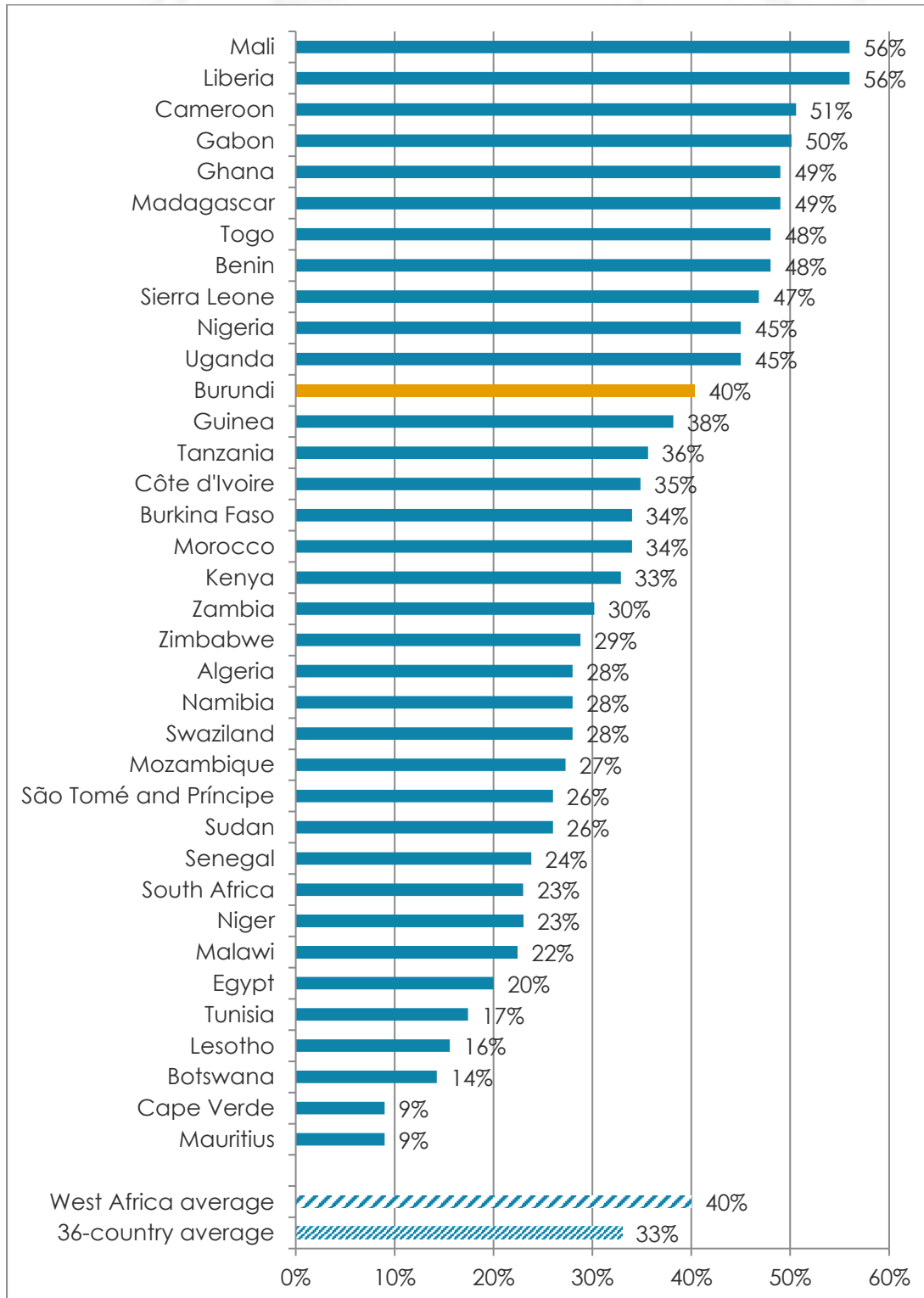
Respondents were asked: How much do you trust each of the following, or haven't you heard enough about them to say: Courts of law? (% who say "somewhat" or "a lot")

Figure 2: Trust in institutions | Burundi | 2014



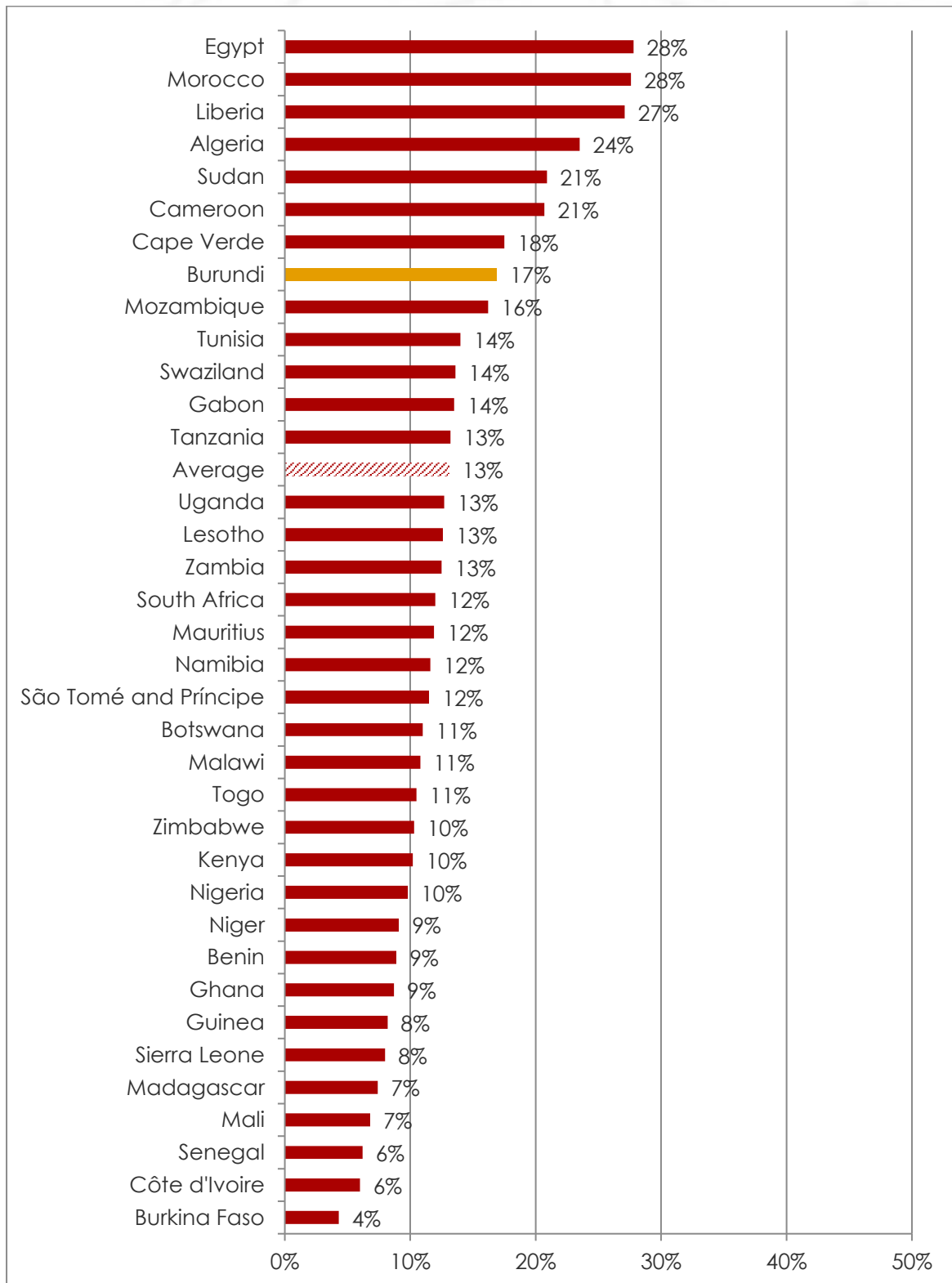
Respondents were asked: How much do you trust each of the following, or haven't you heard enough about them to say? (% who say "somewhat" or "a lot")

Figure 3: Perception of corruption among judges and magistrates | 36 countries
 | 2014/2015



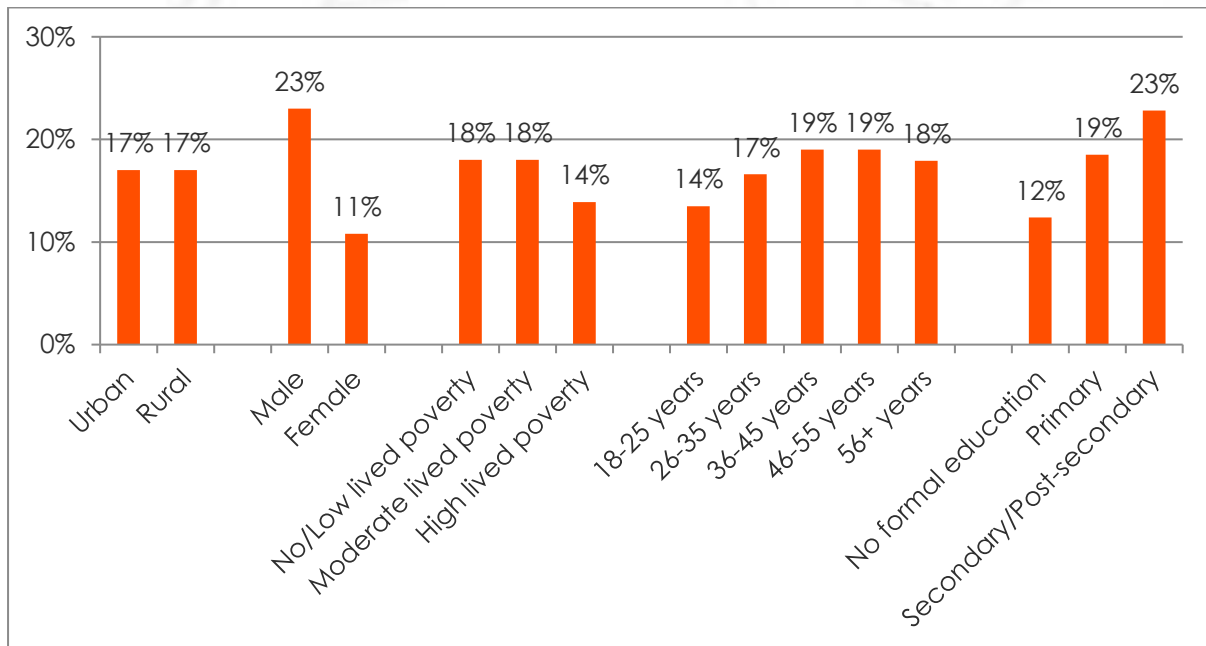
Respondents were asked: How many of the following people do you think are involved in corruption, or haven't you heard enough about them to say: Judges and magistrates?
 (% who say "most of them" or "all of them")
 (Note: In Egypt, the question asked about corruption among "court officials.")

Figure 4: Contact with courts in past five years | 36 countries | 2014/2015



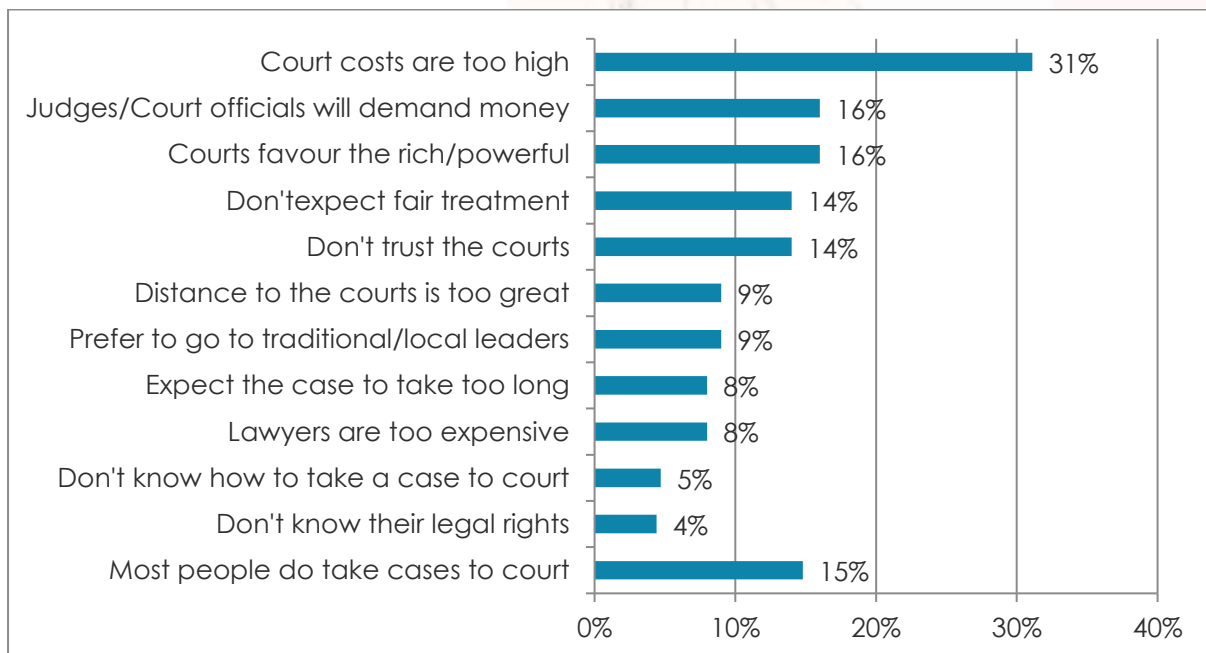
Respondents were asked: *In the last five years, how often, if ever, have you or anyone in your family been directly involved in an administrative, civil, or criminal case that has come before a government court or tribunal as a claimant, as a respondent or defendant, or as a witness? (% who say "once," "twice," or "three or more times")*

Figure 5: Contact with courts in past five years | by demographics group | Burundi | 2014



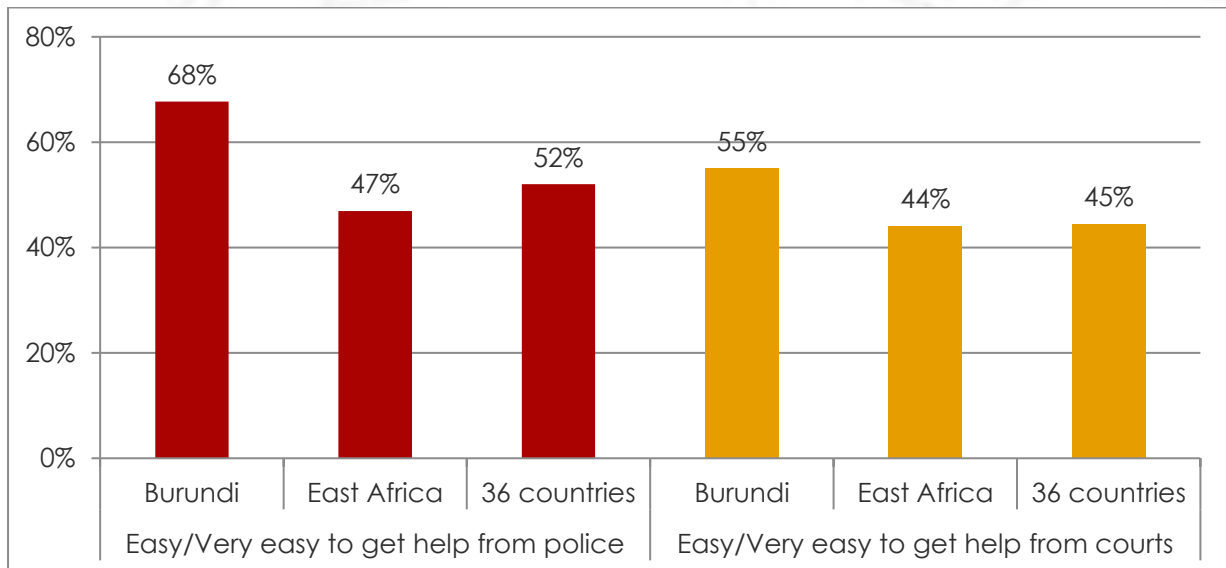
Respondents were asked: In the last five years, how often, if ever, have you or anyone in your family been directly involved in an administrative, civil, or criminal case that has come before a government court or tribunal as a claimant, as a respondent or defendant, or as a witness? (% who say "once," "twice," or "three or more times")

Figure 6: Why citizens avoid courts | Burundi | 2014



Respondents were asked: Sometimes people do not take a case to the government courts, even if they think they have a legitimate complaint and deserve justice. In your opinion, what would be the most important reason that people like yourself would not take a case to court? (Note: Respondents could give up to two responses. The figure shows the proportion of respondents citing each reason as one of their two responses. Percentages can therefore total more than 100%.)

Figure 7: Easy to get help from police and courts | Burundi, East Africa, and Africa (36 countries) | 2014/2015

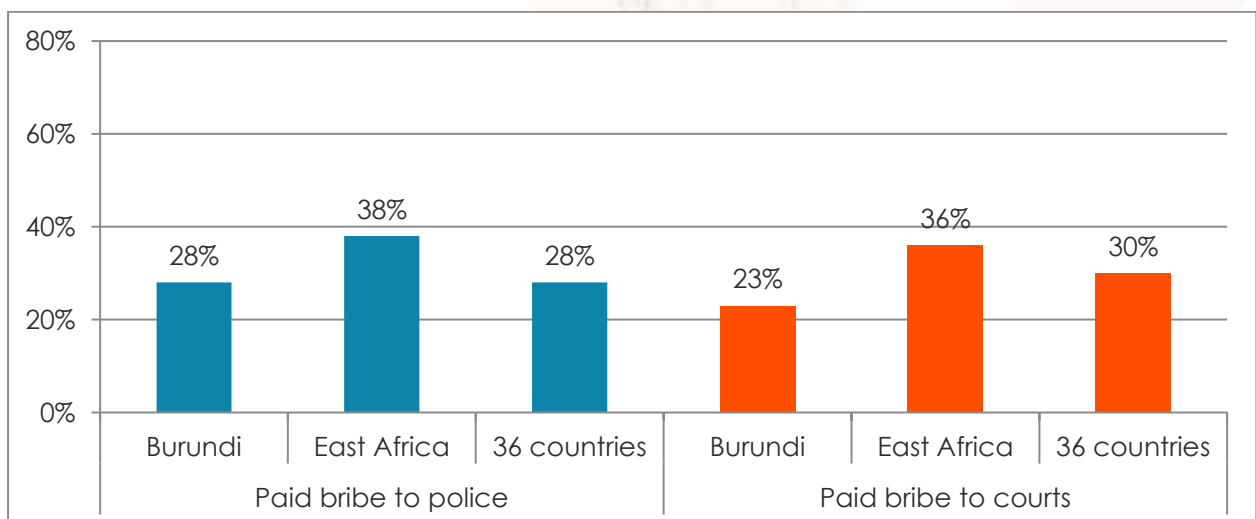


Respondents were asked:

- In the past 12 months, have you requested assistance from the police? [If yes:] How easy or difficult was it to obtain the assistance you needed?
- In the past 12 months, have you had contact with the courts? [If yes:] How easy or difficult was it to obtain the assistance you needed from the courts?

(Note: Percentages are among those who say they had contact with the police/courts. Those with no contact are excluded.)

Figure 8: Paid bribe to police and courts | Burundi, East Africa, and Africa (36 countries) | 2014/2015

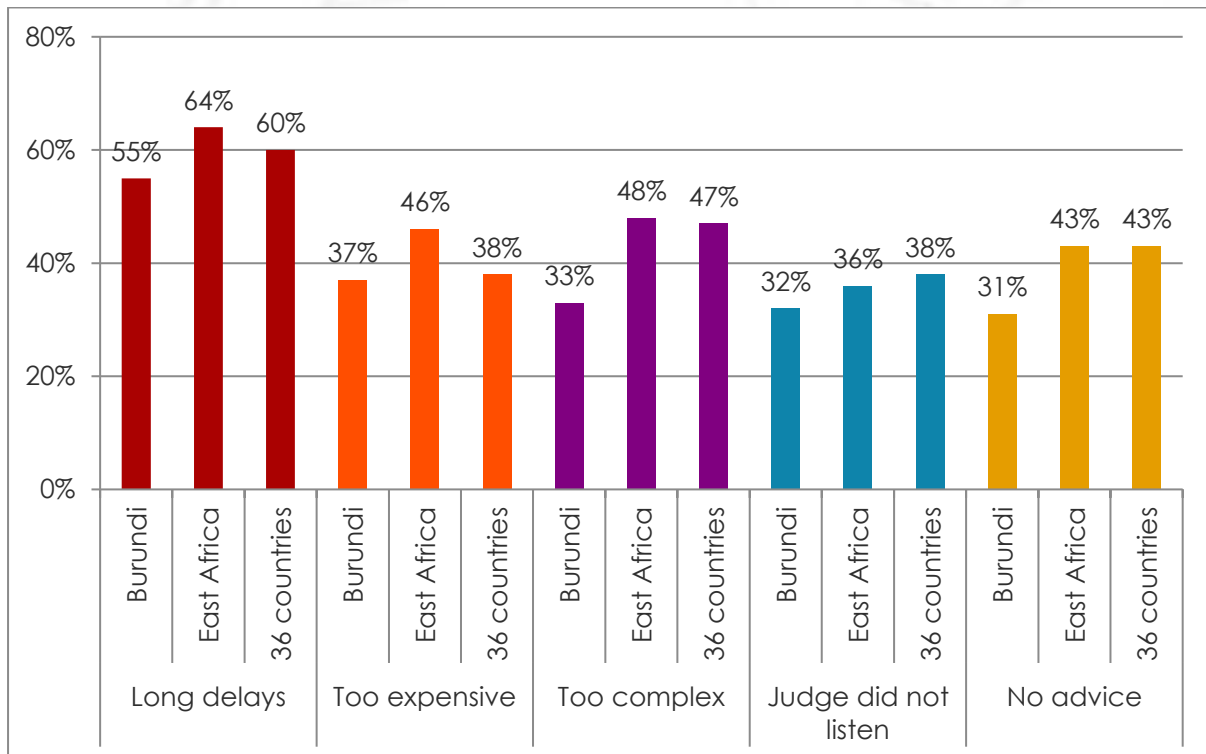


Respondents who had contact with police/courts were asked: And how often, if ever, did you have to pay a bribe, give a gift, or do a favour for:

- A police officer in order to get the assistance you needed, or to avoid a problem like passing a checkpoint or avoiding a fine or arrest?
- A judge or court official in order to get the assistance you needed from the courts?

(Note: Numbers represent those who say they paid a bribe "once or twice," "a few times," or "often," as a percentage of respondents who say they had contact with the police/courts during the previous 12 months. Those with no contact are excluded.)

Figure 9: Problems encountered in court interactions | Burundi, East Africa, and Africa (36 countries) | 2014/2015



Respondents who had contact with the courts were asked: *Have you encountered any of these problems in your experience with government courts in the past five years?*

- You were unable to pay necessary costs and fees.*
- You could not understand the legal processes and procedures.*
- You could not obtain legal counsel or advice.*
- The judge or magistrate did not listen to your side of the story.*
- There were long delays in handling or resolving the case.*

(Note: Numbers represent those who say "once or twice," "a few times," or "often," as a percentage of respondents who say they had contact with the courts during the previous five years. Those with no contact are excluded.)

References

- American Bar Association. (2012). Access to justice assessment tool: A guide to analysing access to justice for civil society organizations. http://www.americanbar.org/content/dam/aba/directories/roli/misc/aba_rol_i_access_to_justice_assessment_manual_2012.authcheckdam.pdf.
- Guardian. (2015). Senior Burundi judge flees rather than approve president's candidacy. 4 May 2015. <https://www.theguardian.com/world/2015/may/05/senior-burundi-judge-flees-rather-than-approve-presidents-candidacy>.
- Human Rights Watch. (2016). Burundi's human rights crisis: Materials published by Human Rights Watch April 2015 to July 2016. https://www.hrw.org/sites/default/files/supporting_resources/burundi_compendium_2016_web_version_4.pdf.
- Human Rights Watch. (2010). Mob justice in Burundi: Official complicity and impunity. <https://www.hrw.org/report/2010/03/26/mob-justice-burundi/official-complicity-and-impunity>.

Pauline M. Wambua is a research assistant for Afrobarometer and a PhD student in educational policy at Michigan State University. Email: wambuapa@msu.edu.

Carolyn Logan is an associate professor in the Department of Political Science at Michigan State University. Email: clogan@msu.edu.

Afrobarometer is produced collaboratively by social scientists from 36 African countries. Coordination is provided by the Center for Democratic Development (CDD) in Ghana, the Institute for Justice and Reconciliation (IJR) in South Africa, the Institute for Development Studies (IDS) at the University of Nairobi in Kenya, and the Institute for Empirical Research in Political Economy (IREEP) in Benin. Michigan State University (MSU) and the University of Cape Town (UCT) provide technical support to the network.

Core support for Afrobarometer Rounds 5 and 6 has been provided by the UK's Department for International Development (DFID), the Mo Ibrahim Foundation, the Swedish International Development Cooperation Agency (SIDA), the United States Agency for International Development (USAID), and the World Bank.

Donations help the Afrobarometer Project give voice to African citizens. Please consider making a contribution (at www.afrobarometer.org) or contact Aba Kittoe (akitoe@afrobarometer.org) to discuss institutional funding.

For more information, please visit www.afrobarometer.org.

Follow our global release updates on #VoicesAfrica on Twitter and Facebook.

Afrobarometer Dispatch No. 134 | 20 March 2017