



Togo's judicial system marked by popular distrust, perceptions of corruption

Afrobarometer Dispatch No. 147 | Pauline M. Wambua and Carolyn Logan

Summary

International observers see Togo's judicial system as suffering from heavy political influence by the presidency, including lengthy pretrial detention for political opponents and impunity for political friends (Freedom House, 2016; U.S. State Department, 2015).

Similarly, they largely see Togo's Truth, Justice, and Reconciliation Commission, established to deal with accusations of political violence between 1958 and 2005, as having fallen short of its objectives, leaving "victims who endured human rights abuses ... disillusioned by the total impunity that yesterday's perpetrators, still in power, continue to enjoy today" (United Nations Human Rights Office, 2012).

On the other hand, Togo's government has taken steps in recent years to improve citizen access to the country's legal system. These include the construction of new appeals court buildings in Lomé and Kara (a lower court building in Sokodé is on the way) and the renovation of court buildings in Aného and Atakpamé. Efforts to improve staffing have included revising the status of magistrates, court clerks, and bailiffs; increasing the number of magistrates and clerks; and establishing a training school for clerks. Finally, access has been facilitated through the creation of welcome, information, and orientation offices; legal clubs for prisoners; and a legal guide for defendants.

How do ordinary Togolese perceive their legal system and the access to justice it affords them? 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 individuals' 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.)

Survey responses in Togo depict a judicial system marked by popular distrust – a striking illustration of the observation by Bishop Nicodème Barrigah-Benissan, president of the Truth, Justice, and Reconciliation Commission, that "the biggest victim of our recurring conflict is certainly trust that we've totally banished from our interpersonal relationships. The Togolese seem to have erected distrust as an absolute principle" (United Nations Human Rights Office, 2012). In Togo, both lack of public trust in the courts and perceptions of corruption among judges and magistrates are well above average ratings across West Africa and across 36 African countries surveyed in 2014/2015.

Among citizens who actually had contact with the courts, many complain of long delays, the system's complexities, a lack of legal counsel, judges who wouldn't listen, and high costs.

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 Togo, led by the Center for Research and Opinion Polls, interviewed 1,200 adult Togolese in 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 Togo in 2012.

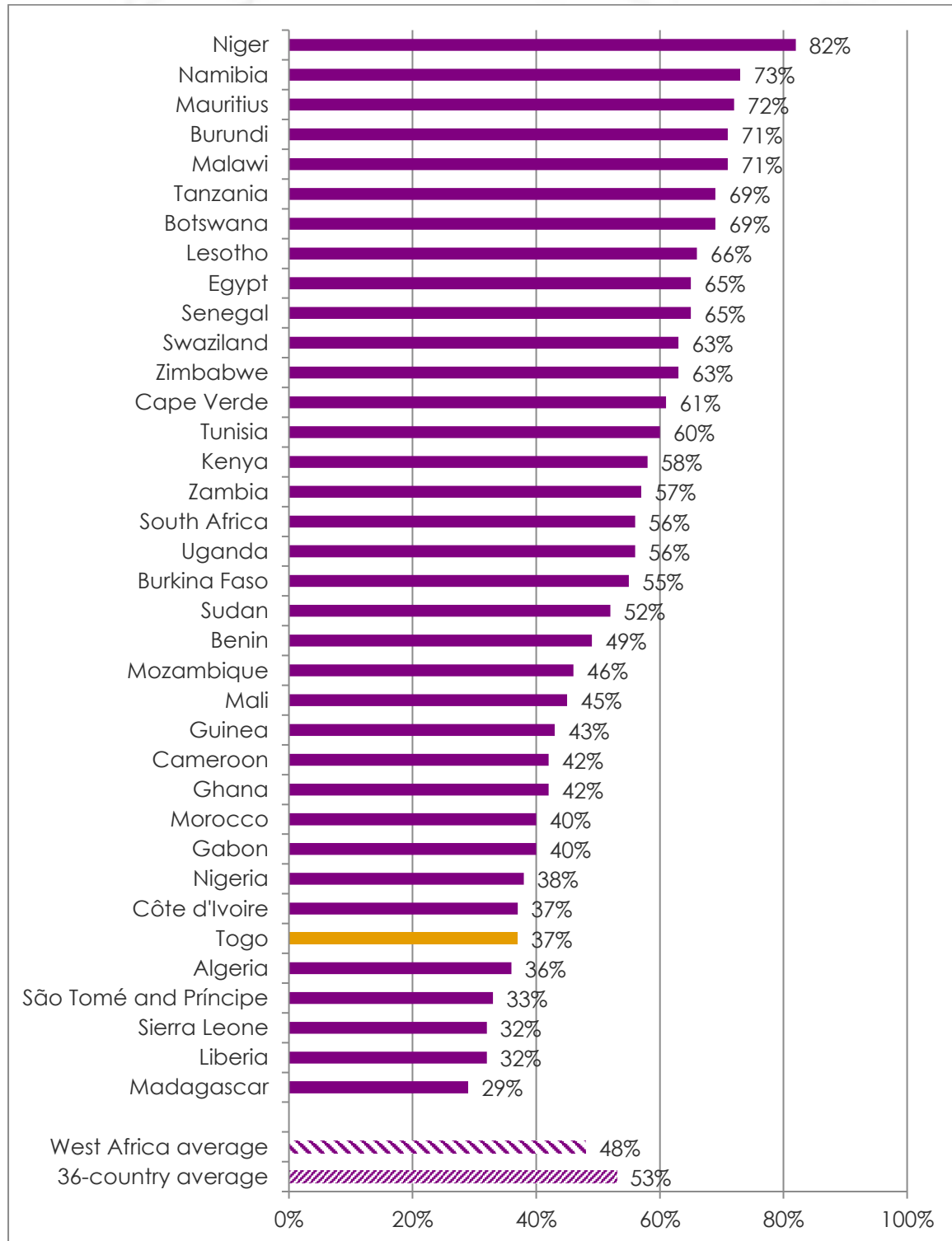
Key findings

- Only 37% of Togolese say they trust their courts "somewhat" or "a lot" (Figure 1) – the sixth-worst rating among 36 surveyed countries and well below the West Africa¹ average of 48%. This puts courts roughly in the middle when compared with other key institutions, somewhat below the police and the army (both 42%) (Figure 2). Even religious leaders are trusted by just two-thirds (67%) of Togolese.
- Almost half (48%) of Togolese say that "most" or "all" judges and magistrates are corrupt, the seventh-worst rating among 36 countries, and significantly worse than the averages for West Africa (40%) and the 36 surveyed countries (33%) (Figure 3).
- About one in nine Togolese (11%) say they had dealings with the court system during the five years preceding the survey (2009-2014), a slightly lower contact rate than average (13%) across 36 countries (Figure 4).
- Rural residents, women, young citizens (18-25 years old), and those without formal education have less contact with courts than do urban residents, men, older Togolese, and those with at least a primary education (Figure 5).
- When asked why people might not take cases to court, Togolese cite the expense (22%) and the perception of the courts as favouring the rich and powerful (17%) and not providing fair treatment (17%) (Figure 6). They also say that many people don't trust the courts (16%) and fear the consequences of pursuing a case in court (15%).
- Respondents who had interacted with the courts during the preceding five years were asked which problems they encountered. Long delays were the most common problem, cited by 48% of Togolese. The complexity of the legal system (44%), lack of legal counsel (39%), inattentive judges (36%), and high costs (28%) were common experiences as well (Figure 7). The proportion of Togolese who report experiencing each of these problems is lower than the regional and continental averages.

¹ In addition to Togo, Afrobarometer's West Africa grouping includes Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Ghana, Guinea, Liberia, Mali, Niger, Nigeria, Senegal, and Sierra Leone.

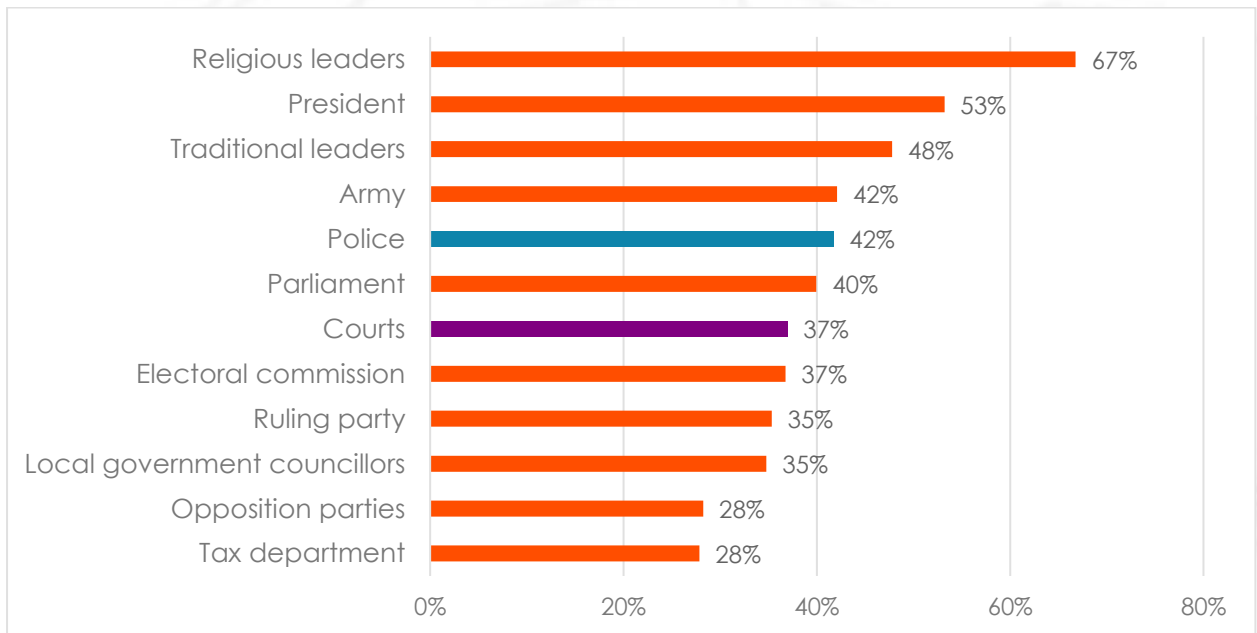
Figures

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")

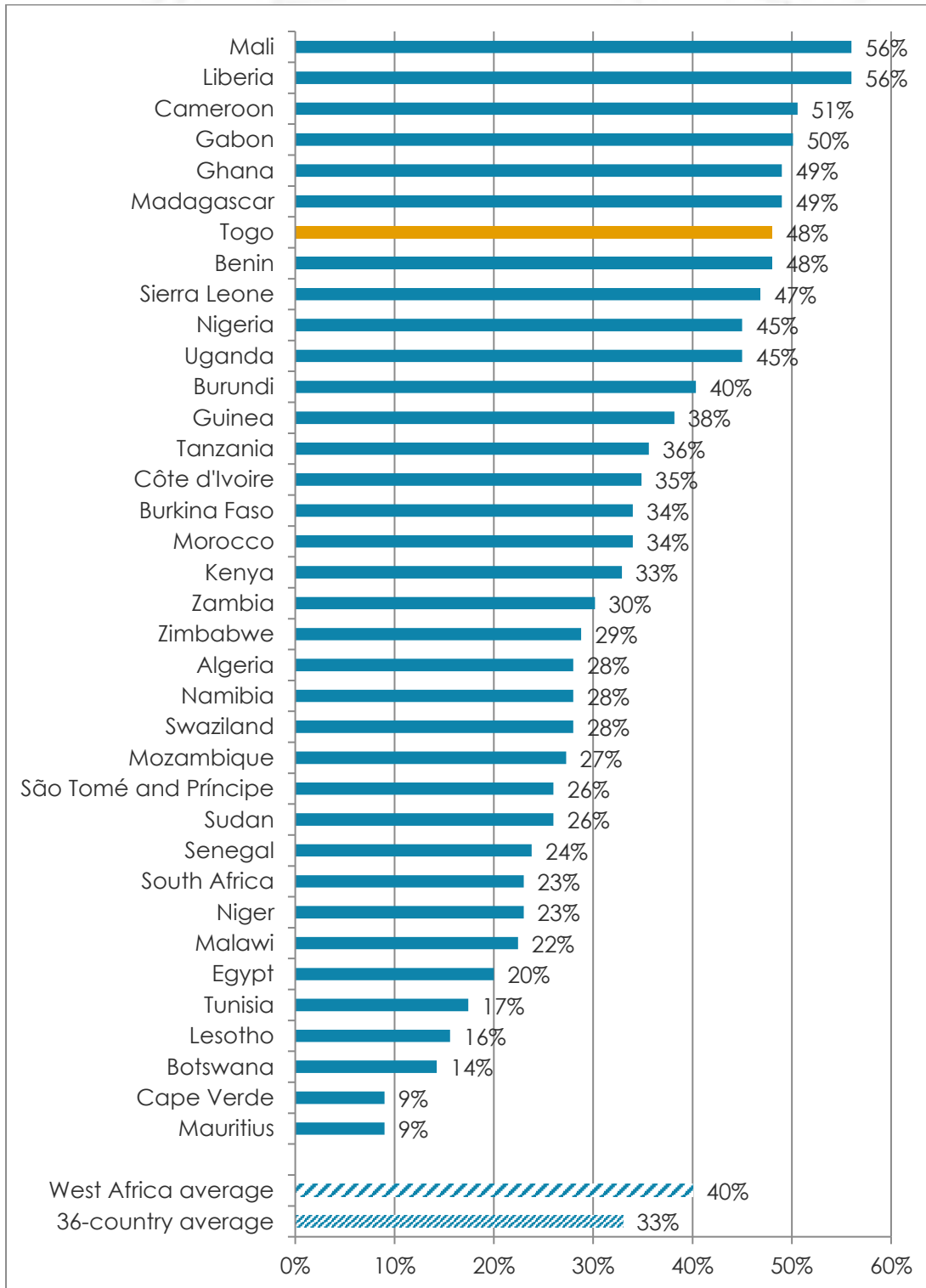
Figure 2: Trust in institutions | Togo | 2015



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")

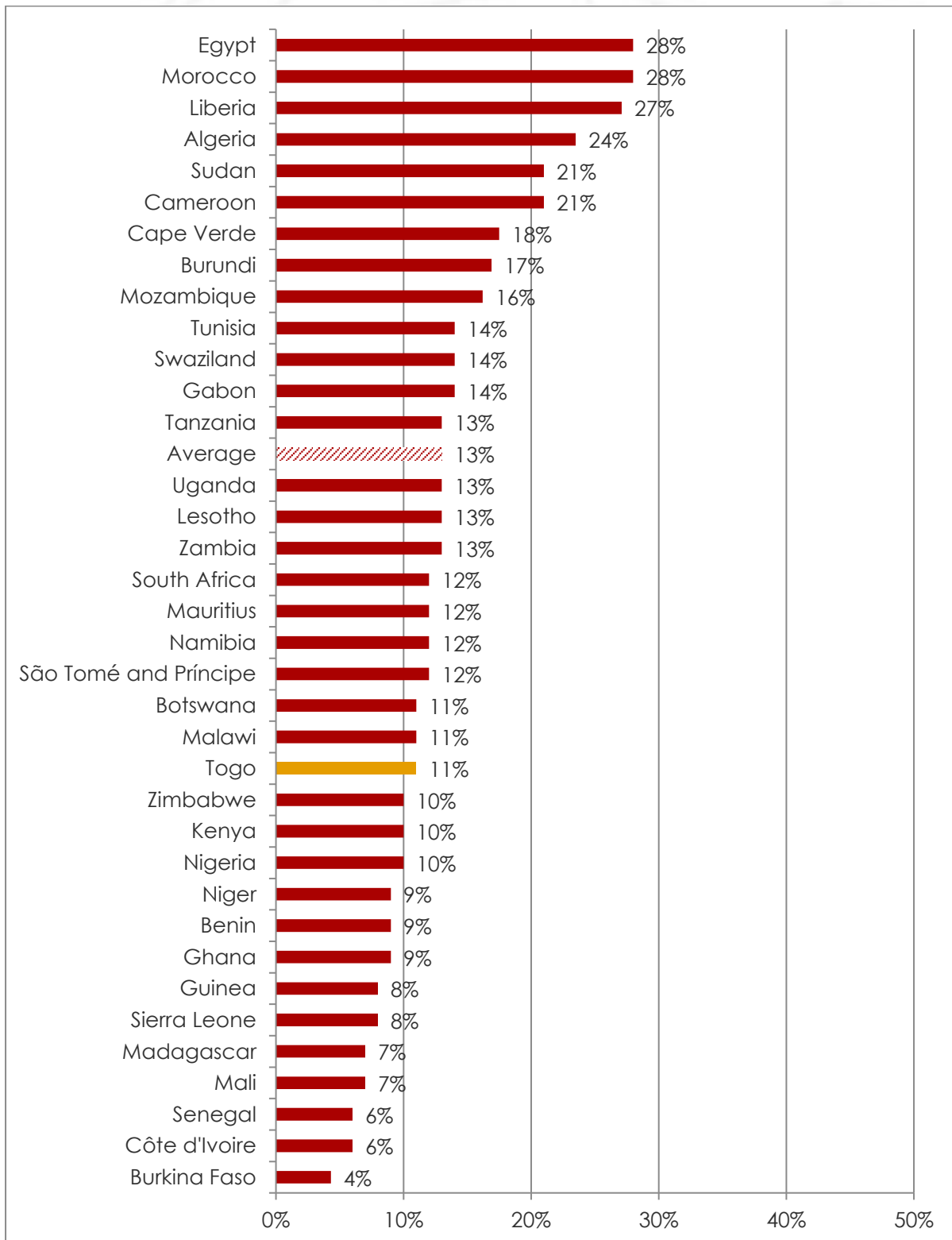
Do your own analysis of Afrobarometer data – on any question, for any country and survey round. It's easy and free at www.afrobarometer.org/online-data-analysis.

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



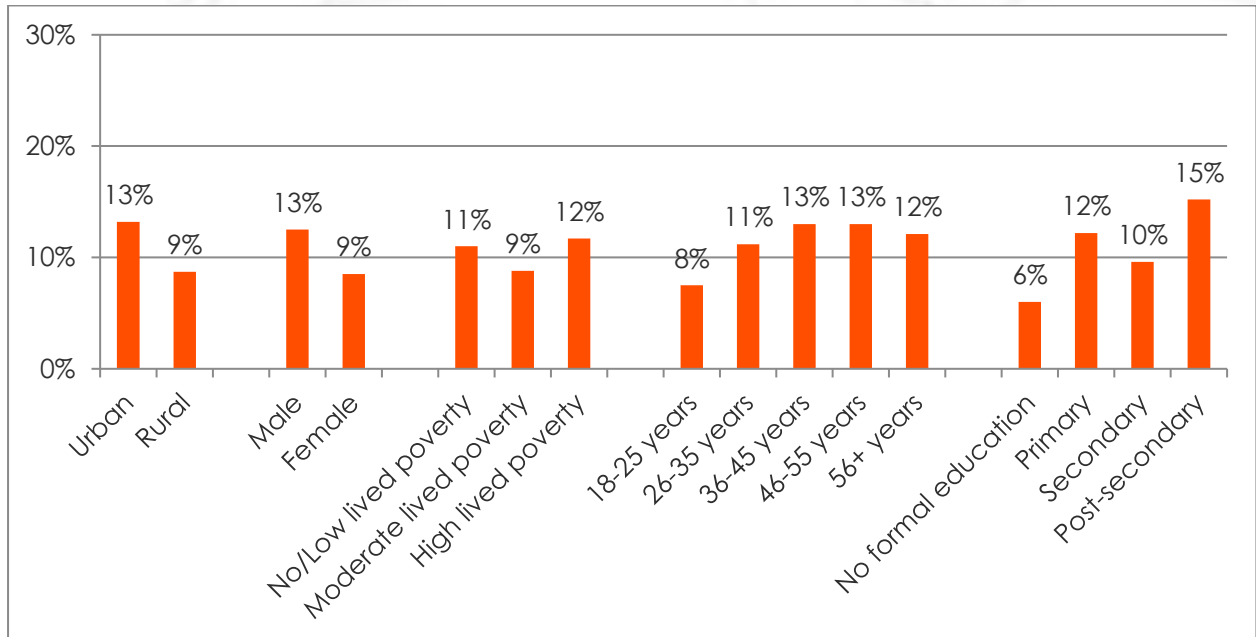
Respondents were asked: How many of the following people do you think are involved in corruption, or haven't you heard enough about them to say: Judges and magistrates?
 (% who say "most of them" or "all of them")
 (Note: In Egypt, the question asked about corruption among "court officials.")

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



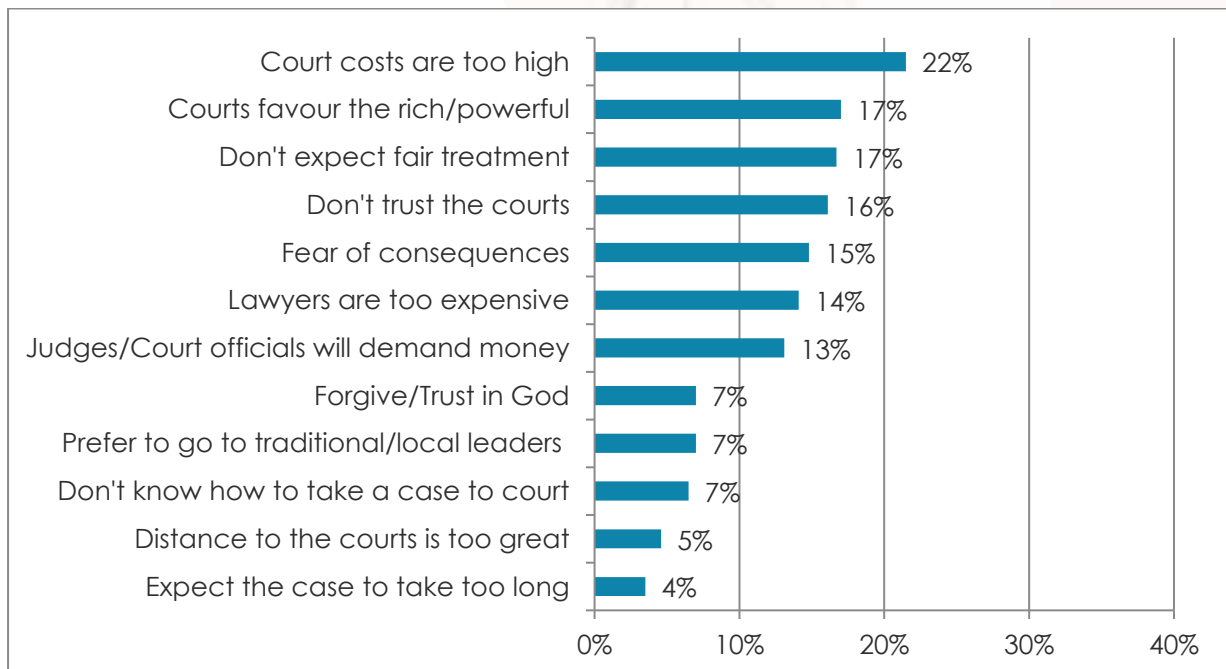
Respondents were asked: *In the last five years, how often, if ever, have you or anyone in your family been directly involved in an administrative, civil, or criminal case that has come before a government court or tribunal as a claimant, as a respondent or defendant, or as a witness? (% who say "once,"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

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



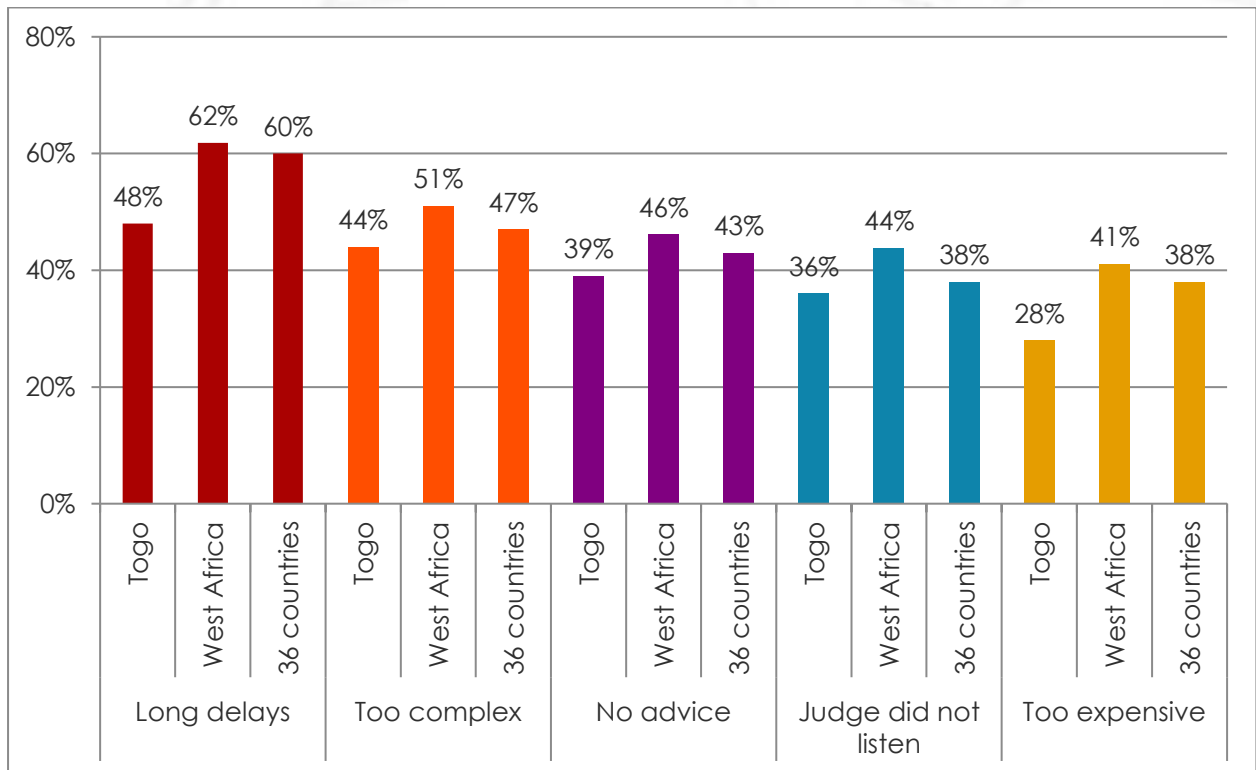
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Figure 6: Why citizens avoid courts | Togo | 2014



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: Problems encountered in court interactions | Togo, West 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.)

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