

In Mali, citizens' access to justice compromised by perceived bias, corruption, complexity

Afrobarometer Dispatch No. 166 | Pauline M. Wambua and Carolyn Logan

Summary

Access to justice for ordinary citizens is a key component of the rule of law and democracy. Mali was once considered a democratic frontrunner on the continent, but political instability and insecurity in recent years have revealed democracy's foothold as tenuous. The state's weakness has raised concerns about the quality and extent of democratic practices and institutions, including the extent to which rule of law and access to justice have taken root in the country.

Political unrest erupted in early 2012 when Tuaregs in the North launched a rebellion, the government lost control over parts of the country, and anti-government protests broke out in Bamako. A disgruntled military staged a coup d'état just a month before the planned 2012 general election.

Under immense international pressure, elected government was restored in mid-2013. Since then, the government has gradually regained control of the North. But even under a peace accord signed in mid-2015, occasional militant attacks have continued, and many observers remain concerned that the country could again unravel.

Like the country as a whole, the Malian justice system has faced deep threats and disruptions, especially in the North, where its reach was limited during the insurgency. According to Human Rights Watch (HRW), Mali's justice system suffered from inadequate personnel and budgetary capacity even before the 2012 conflict (Human Rights Watch, 2015), and these problems continue despite the government's success in re-establishing courts and deploying legal and police officials in the northern regions of Timbuktu and Gao. HRW reports that one consequence of the conflict is a large backlog of cases against individuals suspected of insurgent activities (Human Rights Watch, 2016). Reflecting the legal system's challenges and the need to establish the rule of law, the government requested help from the International Criminal Court (ICC) to investigate crimes associated with the rebellion in northern Mali.

In the face of these challenges, do ordinary Malians have 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 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 Mali suggest that access to justice remains severely compromised. Public trust in the judiciary is low, and perceptions of corruption are high. Malians have some of the lowest contact rates with the judicial system among the 36 African countries surveyed in 2014/2015. Delays, the system's complexities, and perceptions of bias lead many Malians to

rely on traditional and local authorities to dispense justice, rather than engaging with the courts. As the country regains its footing and rebuilds democratic political institutions, it is clear that making the justice system more trustworthy, comprehensible, and fair to ordinary Malians must be a key priority.

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 Mali, led by Groupe de Recherche en Economie Appliquée et Théorique (GREAT), interviewed 1,200 adult Malians in December 2014. A sample of this size yields country-level results with a margin of sampling error of +/-3% at a 95% confidence level. Previous surveys have been conducted in Mali in 2001, 2002, 2005, 2008, 2012, and 2013.

Key findings

- Only a minority (45%) of Malians say they trust the courts “somewhat” or “a lot” (Figure 1). This proportion is slightly lower than the West Africa average¹ of 48% and considerably worse than the 36-country average of 53%. Both the courts and the police (52%) are less trusted than most other public institutions in Mali, where religious leaders (86%) and traditional leaders (85%) enjoy the greatest public trust (Figure 2).
- A majority (56%) of Malians say that “most” or “all” judges and magistrates are corrupt – the worst rating among all 36 surveyed countries and well above the West Africa average (40%) (Figure 3).
- Malians' rate of contact with the justice system is very low: Just 7% of citizens say they had dealings with the court system in the five years preceding the survey (2009-2014), the fourth-lowest rate among 36 surveyed countries (Figure 4).
- Men are twice as likely (9%) to have contact with courts as women (4%). Young citizens (18-25 years old), rural residents, and those without formal education have lower levels of contact than older Malians, urbanites, and those with at least a primary education (Figure 5).
- When asked why people might not take cases to court, Malians say they often prefer to take disputes to traditional leaders or local authorities (32%) (Figure 6). Citizens also indicate that they do not expect fair treatment from the courts (20%), that they believe the courts will favour the rich and powerful (18%), and that they think judges or other court officials will demand money (16%).
- Respondents who had interacted with the courts during the previous five years were asked which problems they encountered. Contact rates in Mali were too low to report the country-specific responses,² but they generally follow the same patterns

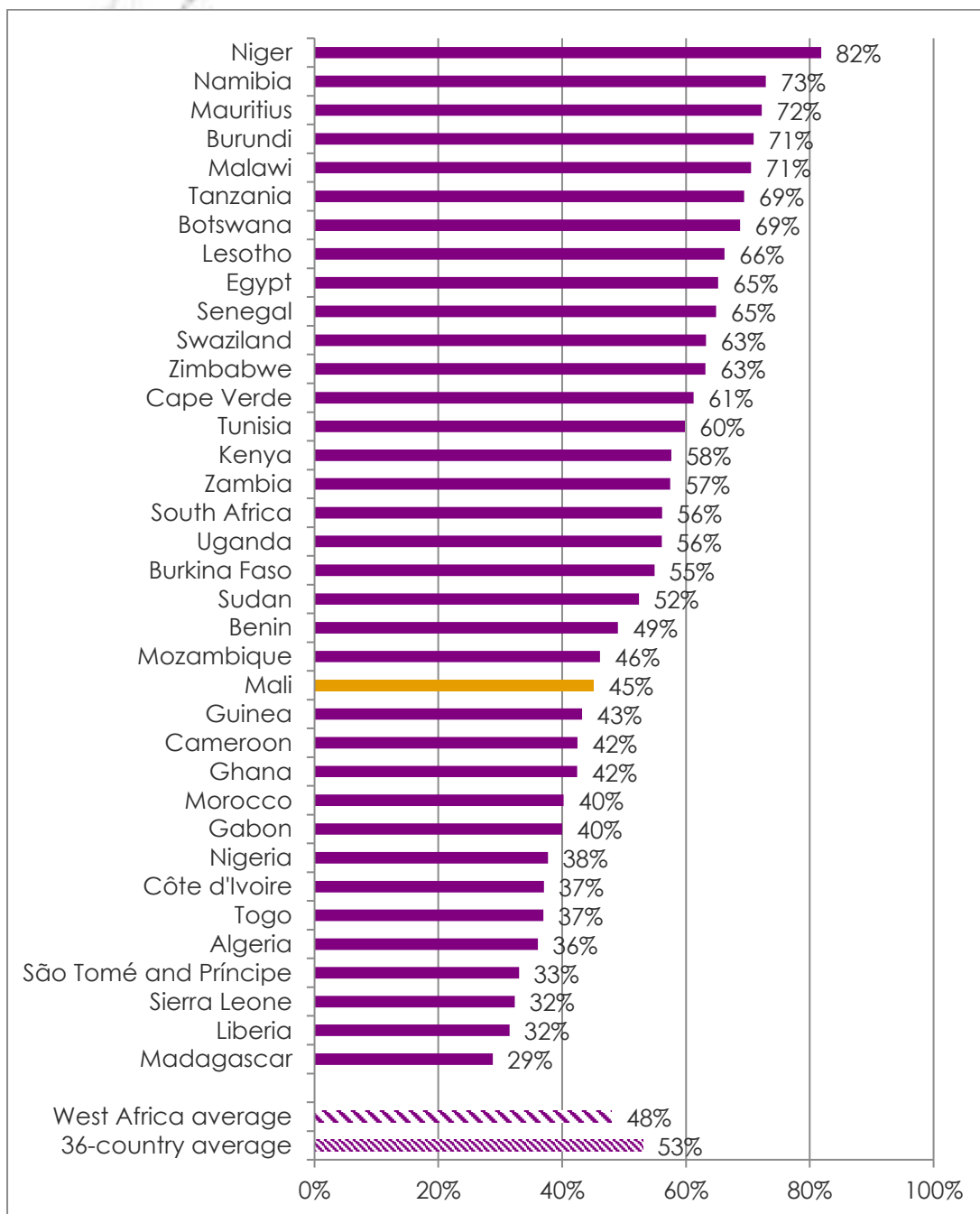
¹ In addition to Mali, Afrobarometer's West Africa grouping includes Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Ghana, Guinea, Liberia, Niger, Nigeria, Senegal, Sierra Leone, and Togo.

² In general, Afrobarometer does not report numeric results for samples of fewer than 100, because margins of uncertainty surrounding such results are too large.

observed in West Africa and across all 36 countries: Long delays are the most commonly cited problem, and the complexity of the legal system, lack of legal counsel, inattentive judges, and high costs are all common experiences as well (Figure 7). The proportion of Malians who report experiencing each of these problems is somewhat lower than the regional and continental averages, but this may reflect the small sample size with a high margin of error.

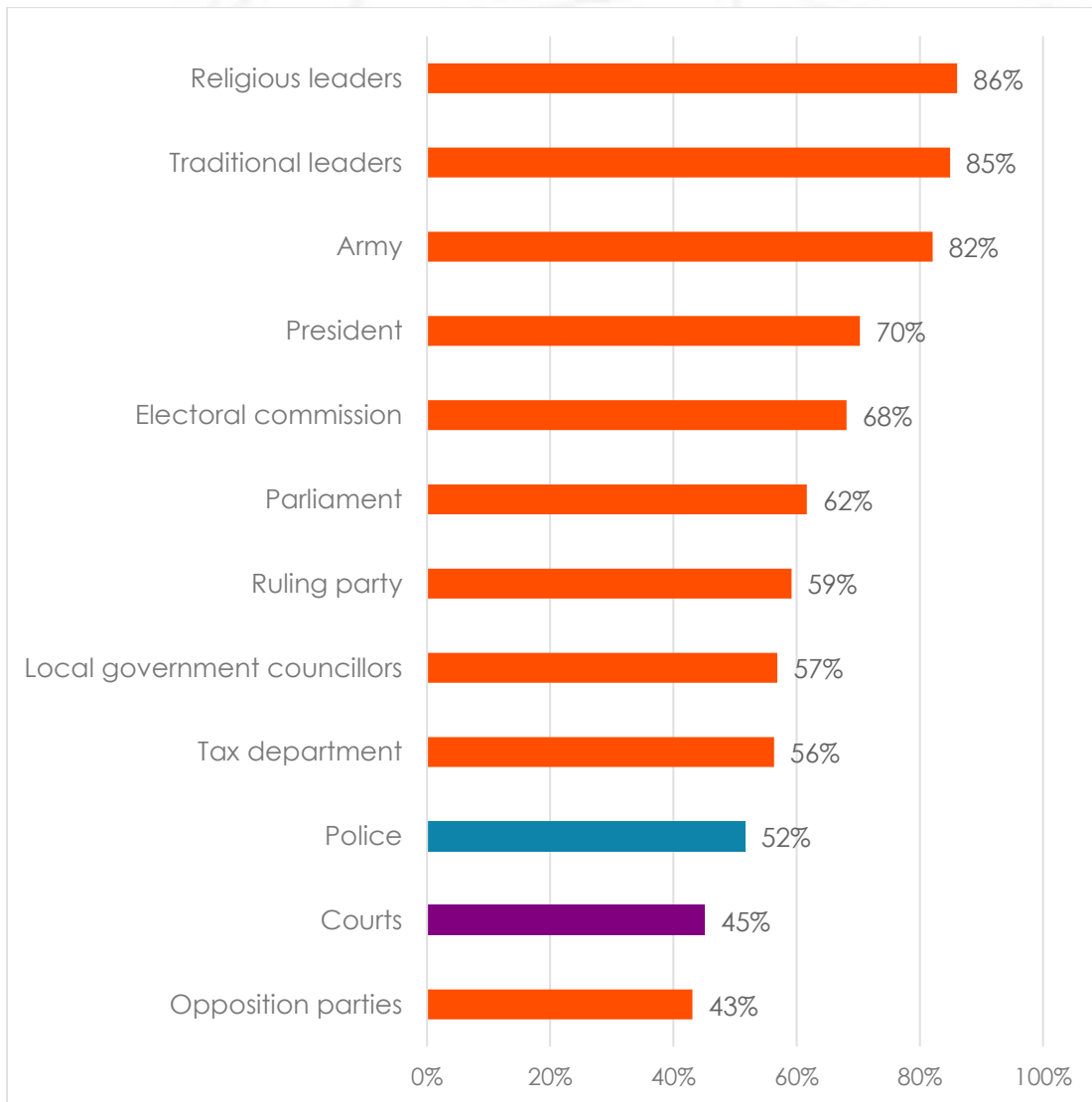
Figures

Figure 1: Trust in the 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")

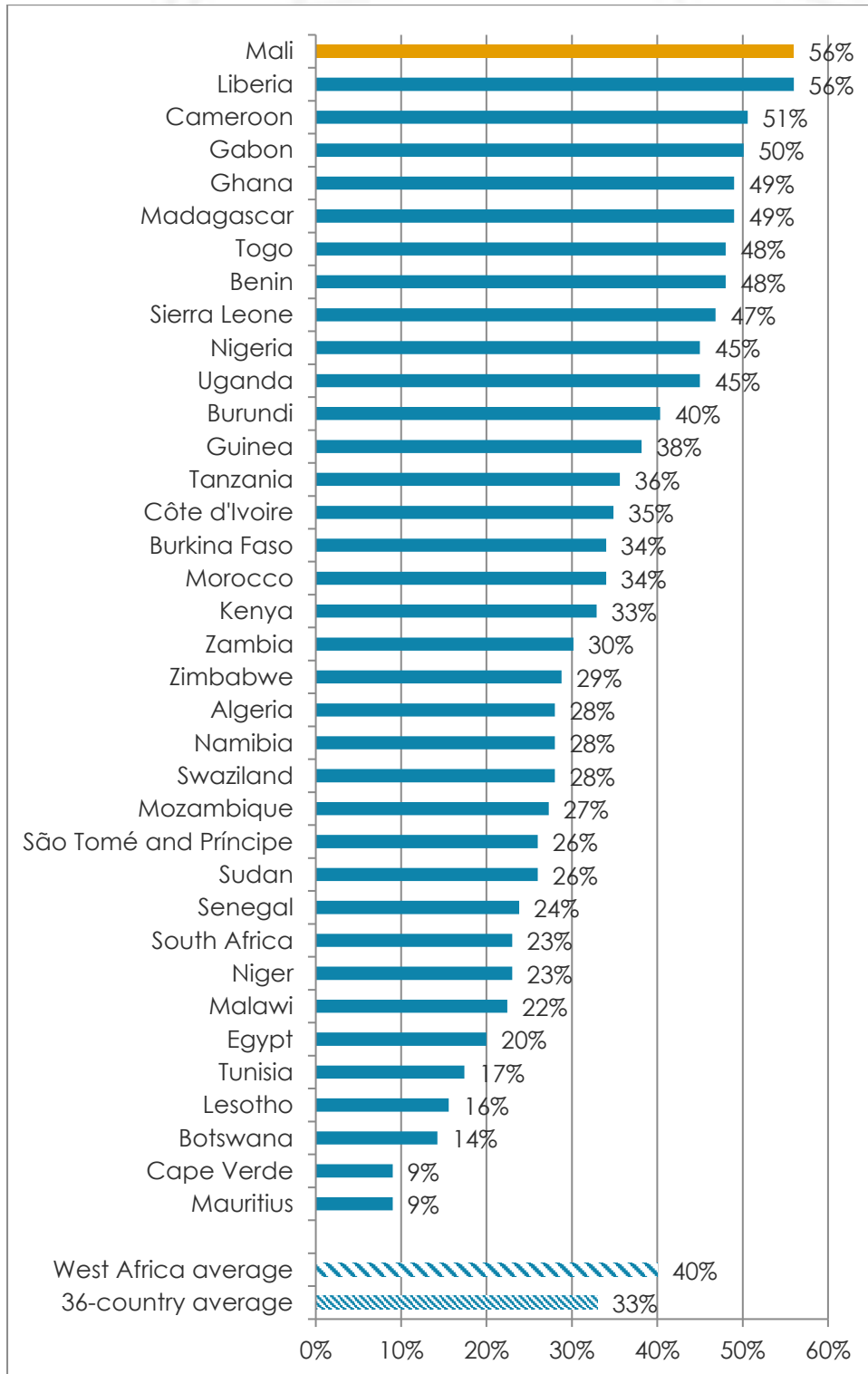
Figure 2: Trust in institutions | Mali | 2014



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")

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.

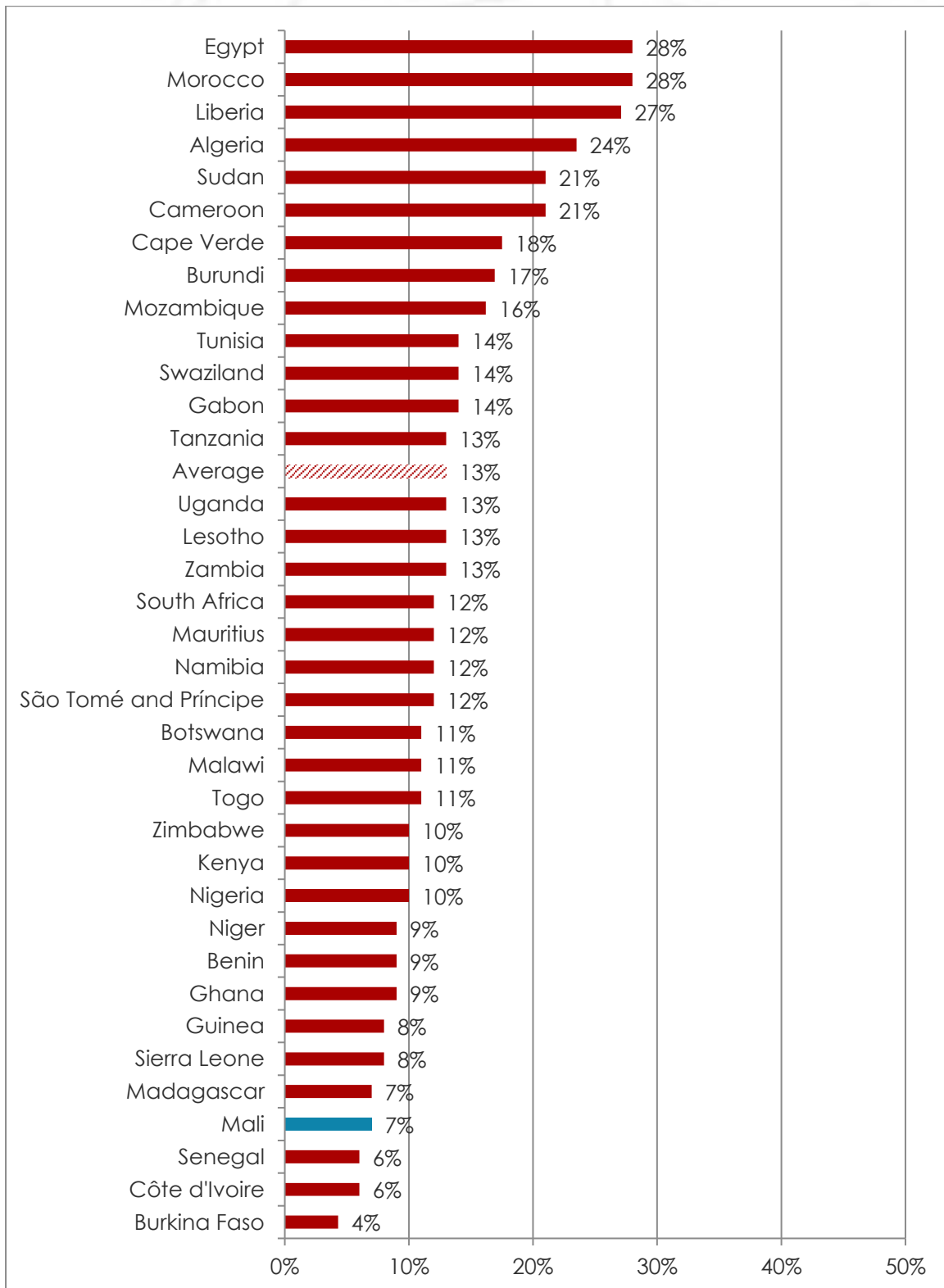
Figure 3: Perception of corruption among judges and magistrates | 36 countries
 | 2014/2015



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")

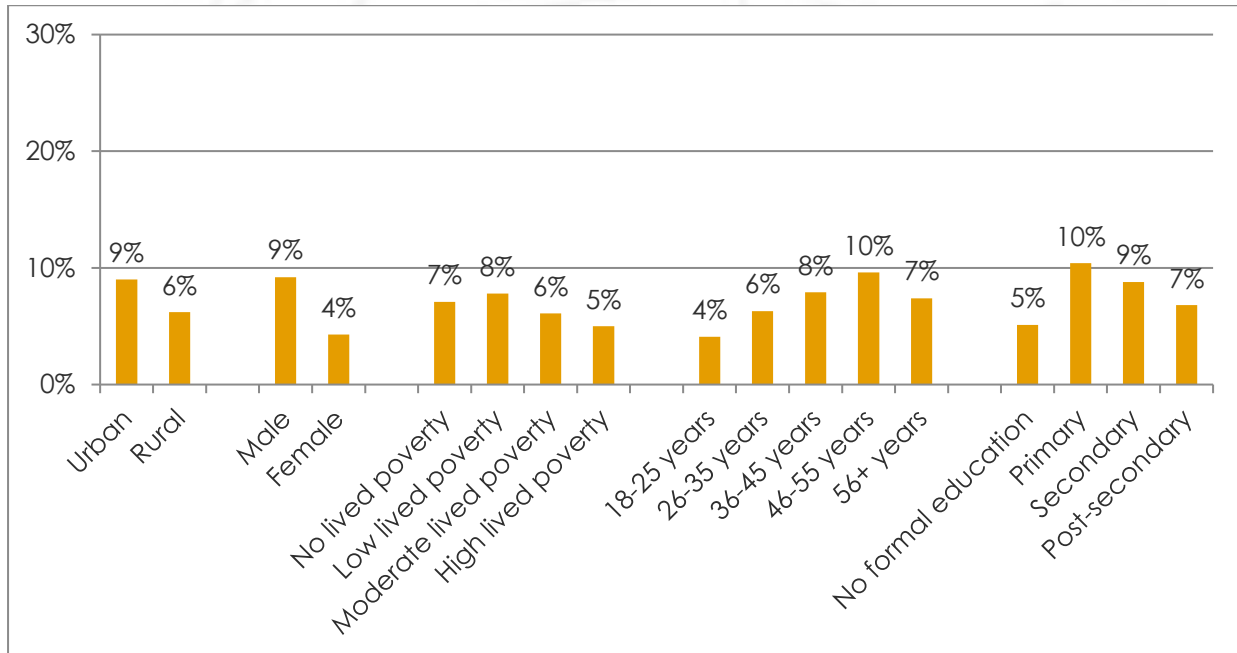
Note: In Egypt, the question asked about corruption among "court officials."

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



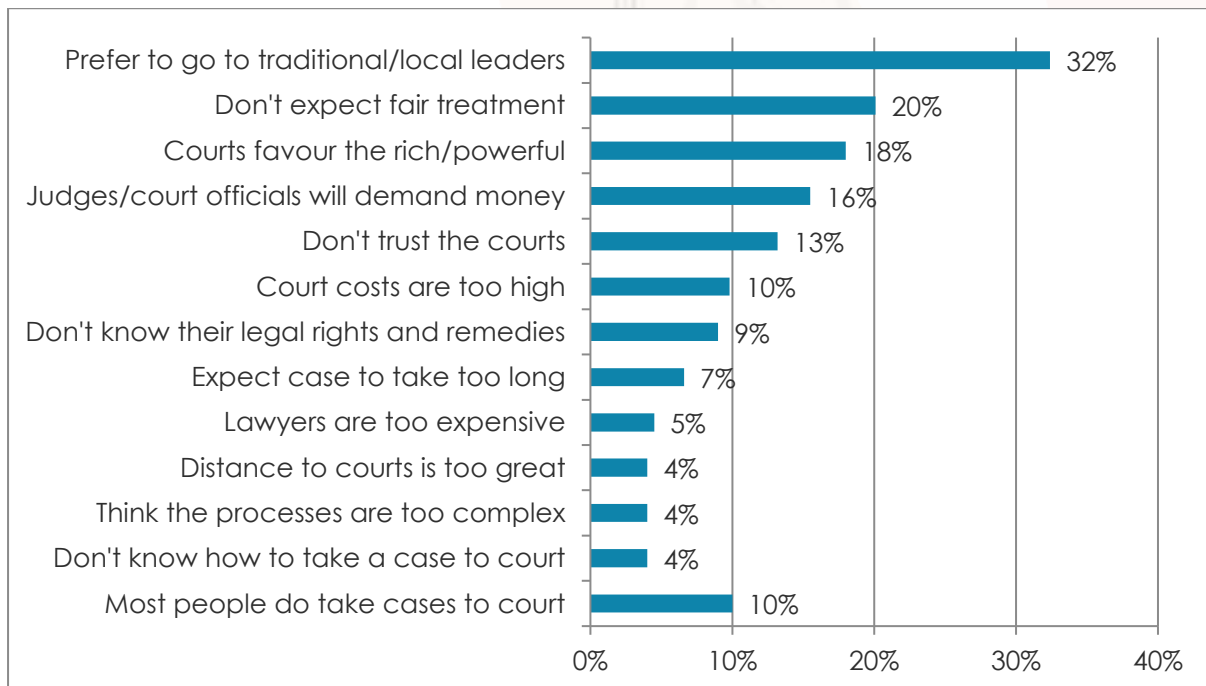
Respondents were asked: *In the last five years, how often, if ever, have you or anyone in your family been directly involved in an administrative, civil, or criminal case that has come before a government court or tribunal as a claimant, as a respondent or defendant, or as a witness? (% who say "once,"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

Figure 5: Contact with courts in past five years | by demographic group | Mali | 2014



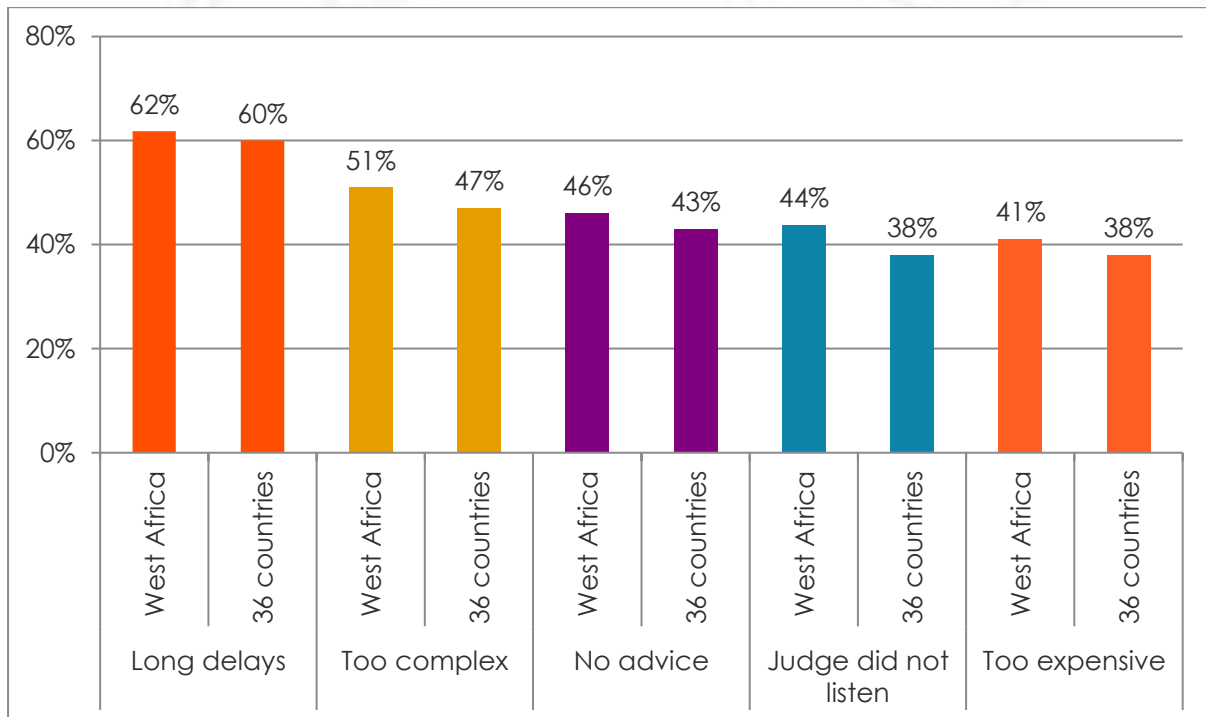
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Figure 6: Why citizens avoid courts | Mali | 2014



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. Percentages shown are 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 | West Africa and Africa (36 countries) | 2014/2015



Respondents who had contact with the courts during the previous five years 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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Afrobarometer is produced collaboratively by social scientists from more than 30 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.

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