

The needs of the Malians for justice: towards more fairness



This research is supported by The Embassy of the Kingdom of the Netherlands in The Republic of Mali.



The EU delegation in the Republic of Mali has provided funding to extend HiiL's **Justice Needs and Satisfaction survey**, study to additional three regions in Mali (Koulikoro, Kayes and Sikasso). This study took place in 2014.



This project is co-funded by the European Union

Justice problems of Hawa, as she has told us

Hawa is 23, married and has a 5-year-old daughter who suffers from a chronic illness. She married her husband in 2009. It was a religious wedding and is therefore not seen as legally binding by law. One day her husband moved to Bamako and called her to say that she should no longer consider herself his wife. From that day on, he has not taken care of her or their daughter, leaving Hawa with the high expenses of the medication and hospital visits.

Hawa's story unfortunately reflects the situation that many women experience in Mali when a religious marriage ends. When the husband leaves most women are left with nothing and have no stable income to support themselves and their children. These women's lives are turned upside down and most husbands will never be held accountable for their actions.

It is evident for all to see that something somewhere has gone wrong. Women like Hawa and their children are not protected.

By listening to the stories from people like Hawa, is it possible to understand what works and what does not work in Mali's justice systems? The people of Mali know best, that is why we spoke to them. This report shares their thoughts, their concerns and their stories.

Table of Contents

05-15	1. The 'Justice Needs & Satisfaction Tool'
16-27	2. Reconciliation and the Rule of Law
28-33	3. The daily justice problems of Malians
34-38	4. The consequences of unresolved problems
39-48	5. The key problems and paths to justice for Malians
49-58	6. Zooming in on land problems
59-67	7. Zooming in on employment problems
68-80	8. Zooming in on family problems
81-83	9. What else is in the data and what are its limitations
84-98	10. Using data to reduce the burden of family, divorce and separation problems as an illustration
90-102	11. Valuable lessons from the people of Mali

1. The 'Justice Needs & Satisfaction Tool'



Learning from past studies and policies

Shifting focus from formal justice to where justice is actually created

Most previous studies on the state of justice in Mali and elsewhere focus on the institutional framework and political context. What legislation is in place? What courts exist? How are police, prosecution, lawyers and legal aid organized? These are the questions that have been explored.

Legal needs studies conducted in 50 countries have shown that most problems are solved through negotiation. There is a gap in current relating to information about; advice that comes from friends and family and the role of informal authority within communities.

Providing a country wide assessment and not focusing solely on urban areas

The majority of previous legal needs studies have focused predominately on urban areas, the people in remote and hard to reach areas are frequently forgotten. Our work

within the field of justice innovation has demonstrated that even the most remote communities have systems in place that others can learn from. Justice has no boundaries and it's frequently the least complex systems that work, this is where a lot can be learnt.

From exposing grave injustices to major problems that affect many people

Studies from NGOs tend to focus on individual human rights violations, corruption or depressing conditions at courts or in prisons. Or they ask the population about their trust in judges and their independence. Although these issues are important attention is also needed on other issues that effect many people such as land disputes, family problems and problems with defective goods.

From one fairness dimension to listening to more sophisticated views on what is fair

Most existing justice needs studies focus solely on how satisfactory procedures are. Researchers have found that

Learning from past studies and policies

>> people distinguish between getting respect, having a fair procedure and knowing what to expect in a procedures. The people want to be heard, treated with more respect. They also expect outcomes to be fair, transparent, provide a good solution for their problems, accepted able and work. This is where progress in research can be made and measured.

Current policies focus on improving formal institutions but there is much to learn from informal justice | Policies tend to improve courts, laws and other formal institutions. The impact on the rule of law has not always delivered anticipated results, new approaches are required.

Our tool enables measurement of the notoriously challenging Rule of Law area in Mali

The approach

1. Is about justice in people's lives and understanding their experiences in seeking access to justice, both by the informal processes and by going to the lawyers or courts.
2. Enables decision makers to focus on justice when and where it is needed most. The problem areas are highlighted by the citizens, a true bottom-up approach.
3. Provides an evidence based tool that can support the decision making process for development aid programming with the Rule of Law area.
4. Builds on people's knowledge of what works best (the bright spots).
5. Informs users and suppliers about justice services. Enables users to be informed about where to go to and which services to use and assists suppliers to improve their services.
6. Offers a cost-effective alternative to monitoring progress in the justice sector. A standardised and repeatable approach will lead to: economies of scale;

a reduction in operational costs; increased efficiency (time and resources saved); a reduction in operational risk and enable cross country benchmarking.

In order to understand the justice problems in Mali, the people were asked 110 questions

Below are examples of actual questions put to the people:

To what extent (scale 1-5) ...

... did the process make you feel frustrated?

...did the process make you feel angry?

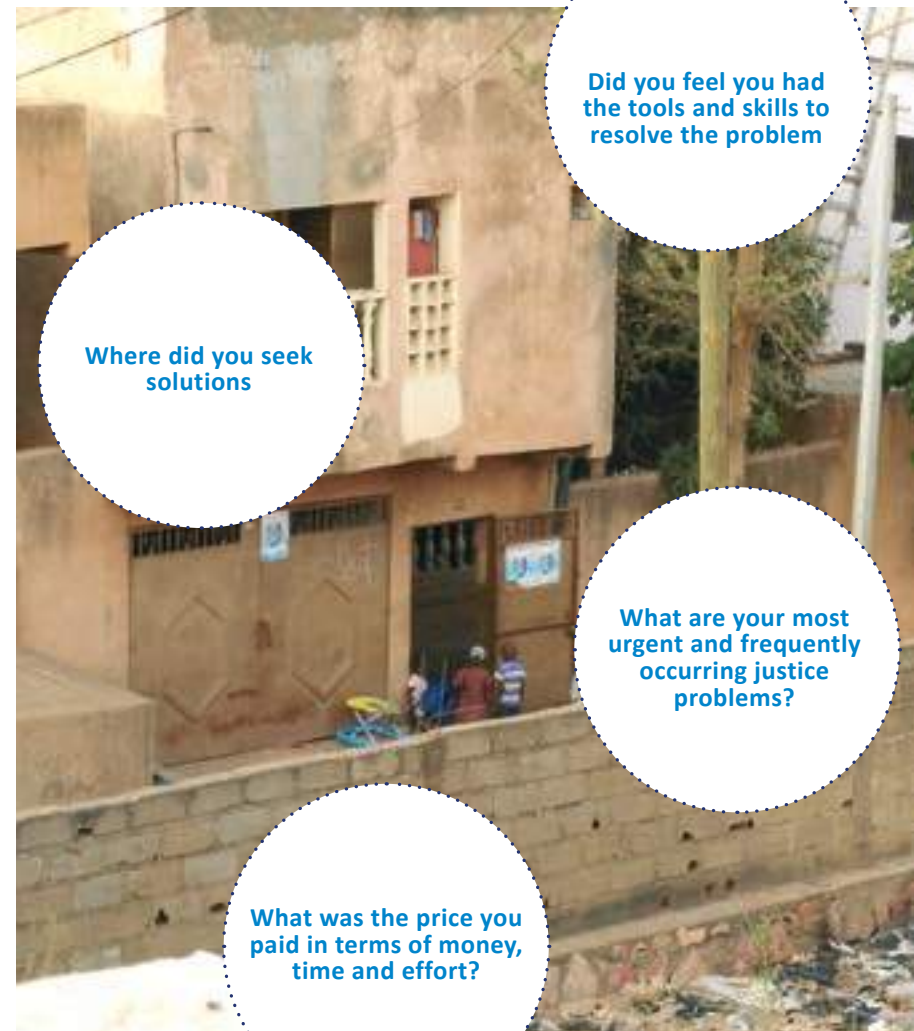
...were you able to express your views and feelings during the dispute resolution process?

...were the same rules equally applied to you and to the other party/ies?

...was the dispute resolution process based on accurate information?

...did the adjudicator explain your rights and options during the process thoroughly and made sure you understood them?

...was it important for you that the division matches what you deserved?



Fairness regarding different paths to justice

People use formal and informal processes to resolve their legal problems. In our methodology, the justice processes commonly applied are called paths to justice. HiIL measures each path to justice by asking the people who use them about 10 easy to understand indicators. In this way we measure justice from the bottom-up.

For each path to justice, we trace the justice dimensions on a spider web. On the scale, 1 means poor and 5 means good.

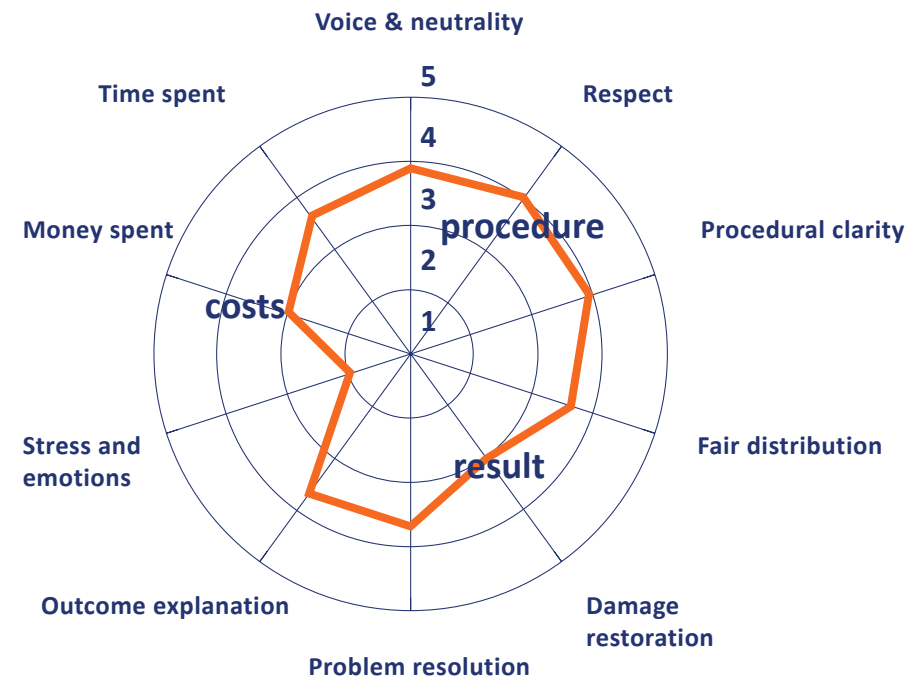
The cost of justice

- Monetary costs: Additional costs for legal fees, travel, consultants
- Time costs: time spent to search for information, attend hearings, travel
- Stress and negative emotions

The quality of the procedure

- Voice & Neutrality: control of the processes, decision control, neutrality, consistent application of the rules

For instance



- >> • Respect: respect, politeness, appropriate communication
- Clarity of the procedure: explanation (in time) of procedures and rights

The quality of the result

- Fair distribution: the distribution is equitable according to the needs, fairness and equality of the criteria
- Damage restoration: fair compensation for monetary damages, emotional harm and damage to relationships
- Solving the problem: to what extent the problem is solved and the result has been applied
- Explanation of the result: to what extent the people involved have access to information on the results



Research Methodology

Survey

Subset of the Malian population, 8300 people surveyed: (57% men; 43% women) randomly selected. The surveys have been conducted between March and April 2014

Topics included:

- Problems
- Advice
- Path to Justice
- Resolution
- Fairness
- Reconciliation

Workshop

Feedback from Judges, CSOs & other key Stakeholders

Validate Survey Results

Feedback coming from eminent activists of the civil society

Interviews

Feedback from Focus groups



Validate Survey Results

Mobile technologies streamlines data collection and assists justice programming decisions

- Mobile technologies have the ability to provide new insights into existing data sets. Clever visualizations allow quick discoveries of trends.
- Justice needs can be linked to specific locations which allows for a better understanding of the relationships between problems, people, communities and institutions.
- Visualized data highlights best practices within regions that can be applied elsewhere. Best practices are the most valuable if they come from a similar context.
- Information about specific locations allows for justice interventions to be more targeted and deliver greater value for money.
- Mobile technologies and GPS stamps improves the quality control of the data collection process.



Selection criteria

The data highlighted 91 different justice problems in Mali, in 14 categories. These correspond to the key relationships affecting economic and social well-being.

When we asked questions about criminality, it was in relation with being victim of a crime.

This report will explore 3 of these justice problems in depth.

The selection criteria we applied to select the justice problems are:

- Do these problems occur frequently in Mali?
- Does gender play a role in the problem?
- Are best practices and proven protocols readily available?
- Are 'quick wins' possible?

The selected problems are

- Land
- Family
- Employment

2. Reconciliation and the Rule of Law



The importance of reconciliation

We first asked respondents about justice and reconciliation after the presumed violations of international law, criminal law and human rights of 2012 and 2013.

Hiil believes that the importance of reconciliation for Mali cannot be underestimated. The reconciliation processes will set the foundations for an inclusive Malian society built around the pillars of rule of law and accountability.

“We must give voice to the demands and expectations of the people, and the demand of the people is very clear: they are seeking an end to the current situation, a solution which will give a peaceful and secure environment and enables them to get on with their lives.”

– John Ging, Director of Operations in the Office for the Coordination of Humanitarian Affairs - June 2014

Justice problems of Fatimata, as she has told us:

The night that Fatimata's son - a soldier - disappeared, he had told his mother that he was on duty at the gate, guarding it. At around midnight, he phoned his mother asking her to send a car to fetch him because he was hiding somewhere around the Hippodrome. Later, while he was incarcerated at the camp of Kati, Fatimata managed to talk to her son several times, but without ever being able to see him. Fatimata never doubted that these would be the last phone conversations she was going to have with her son.

A few weeks after the disappearance of her son the leader of the coup was arrested in his house in the center of Bamako. There was a strong suspicion that it was he who had given the orders to shoot at the soldiers on the evening that Fatimata's son disappeared. One week later authorities discovered 21 bodies of soldiers in a well near Kati. Fatimata is still awaiting the results of the DNA tests to determine who they once were.

What Fatimata wants above all else is that there is a trial so she can see the person who killed her dear son face-to-face. She also wants official funerals for those who died as a sign of recognition from the State. Most of them, like her son, had fought the rebels in the three northern regions: Timbuktu, Gao and Kidal. It is unimaginable to Fatimata that her son and the other soldiers would be killed in cold blood by their own brothers in arms.

By speaking out, fighting for justice, Fatimata's life has become a nightmare. She has been threatened and she can't go into her house anymore during the day time for fear of being seen. She is now in hiding and she only enters her house late at night in order to see her grandchildren. But she can never stay long as she fears for being discovered.

All of this has made Fatimata even more determined to bring those responsible for the death of her son to justice.

Conflict prevention in the future

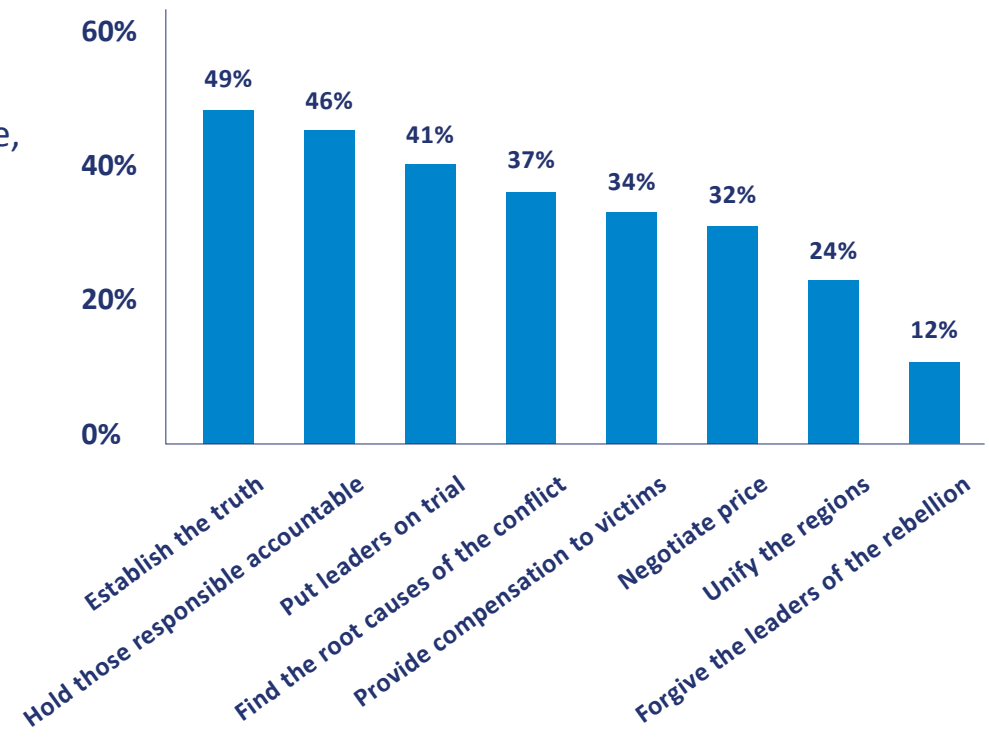
What is important after the 2012 crisis?

The people of Mali want to know what really happened. They are eager to hear the truth (49%). Malians want to see the people responsible for the atrocities held to account (45.7%) and that the leaders are brought to justice (40.5%).

Further analysis demonstrated that:

- Women are somewhat more inclined to support peace, to forgive and provide compensation. Men want to establish the truth and put the leaders of these atrocities on trial.
- Urban areas are slightly more supportive of peace efforts, while rural areas would want to see more appeasement in the region.

What should we do to prevent conflicts in the future?



Options for compensating victims

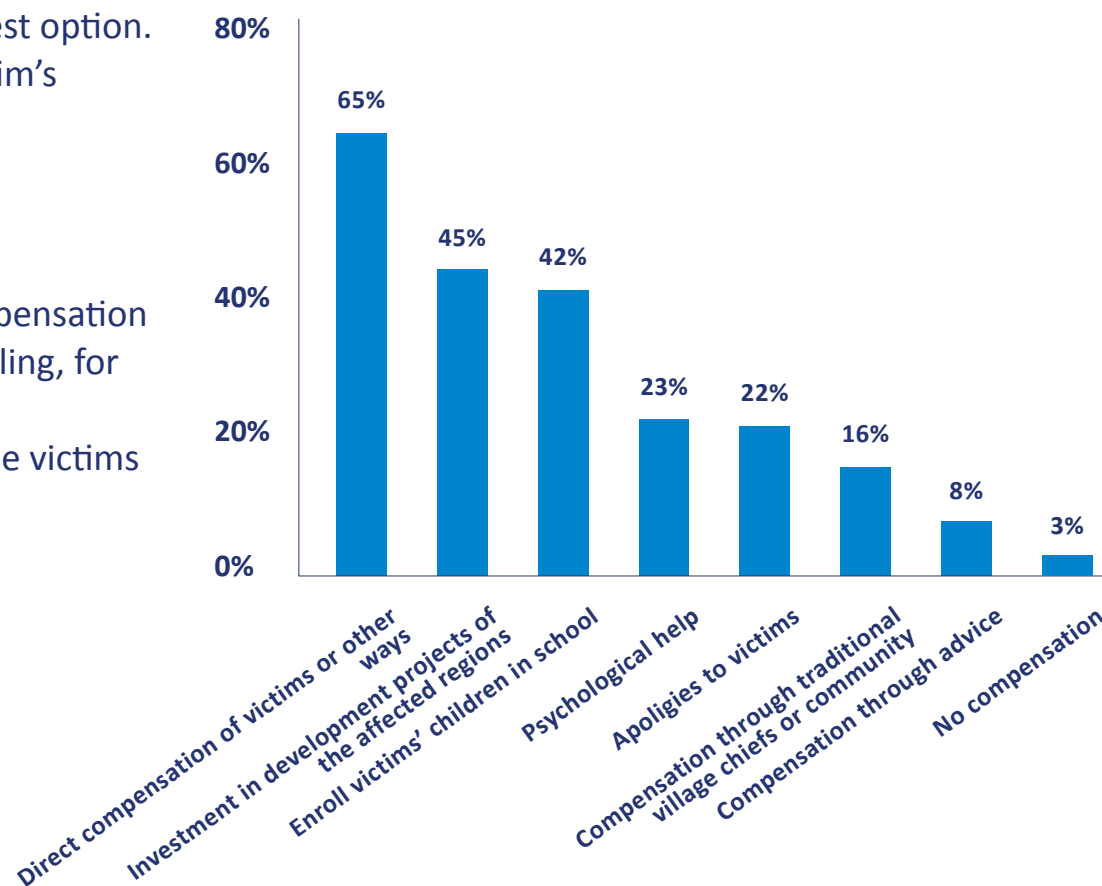
How to compensate victims?

65% felt that the best way to compensate the victims of the 2012 crisis is directly. For 45% of them, investing in local development projects is the best option. 42,5% found that offering education for the victim's children was best.

Further analysis demonstrated that:

- In urban areas there is more support for compensation of victims, investment in development, schooling, for public apologies and psychological help
- Women are more in favor of apologizing to the victims and schooling for the victims' children

What are the best options to compensate the victims of the recent events during the occupation and the conflicts in the northern Mali?

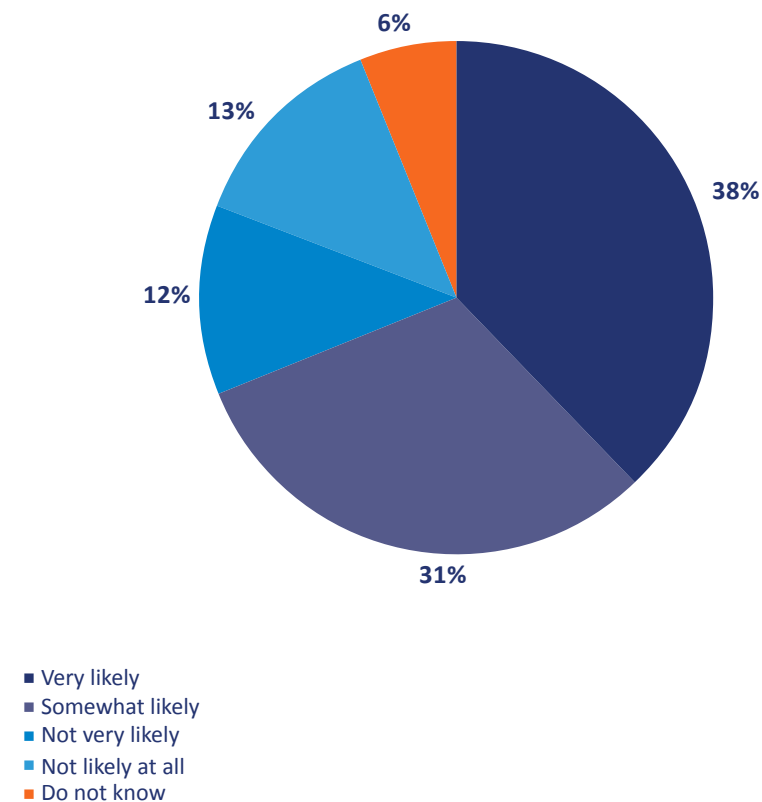


The Truth, Justice and Reconciliation Committee

Do you know the Truth, Justice and Reconciliation Committee?

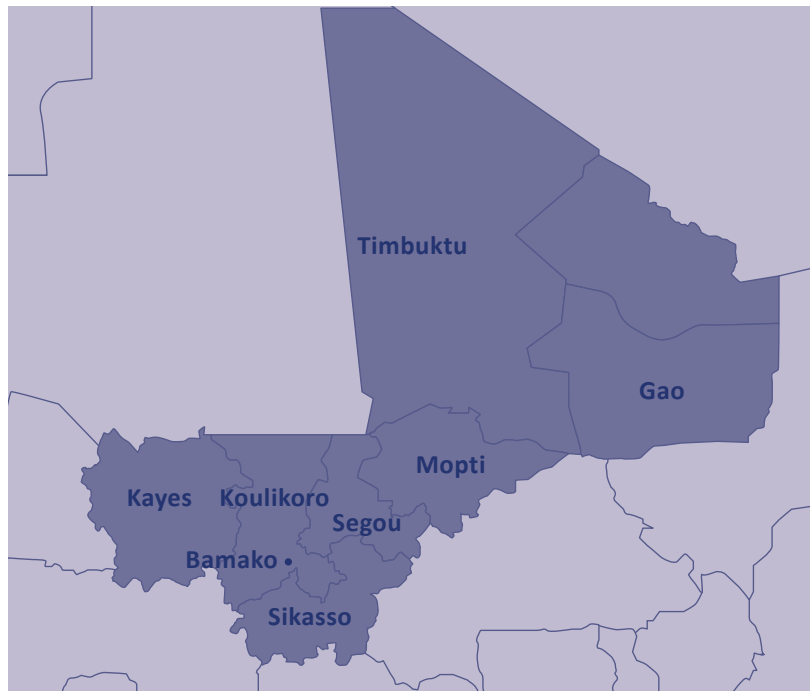
The Malians are aware of the existence of the Truth, Justice and Reconciliation Committee (57%).

Do you think that it is likely that the Truth, Justice and Reconciliation Committee can promote national reconciliation and lasting peace in Mali?

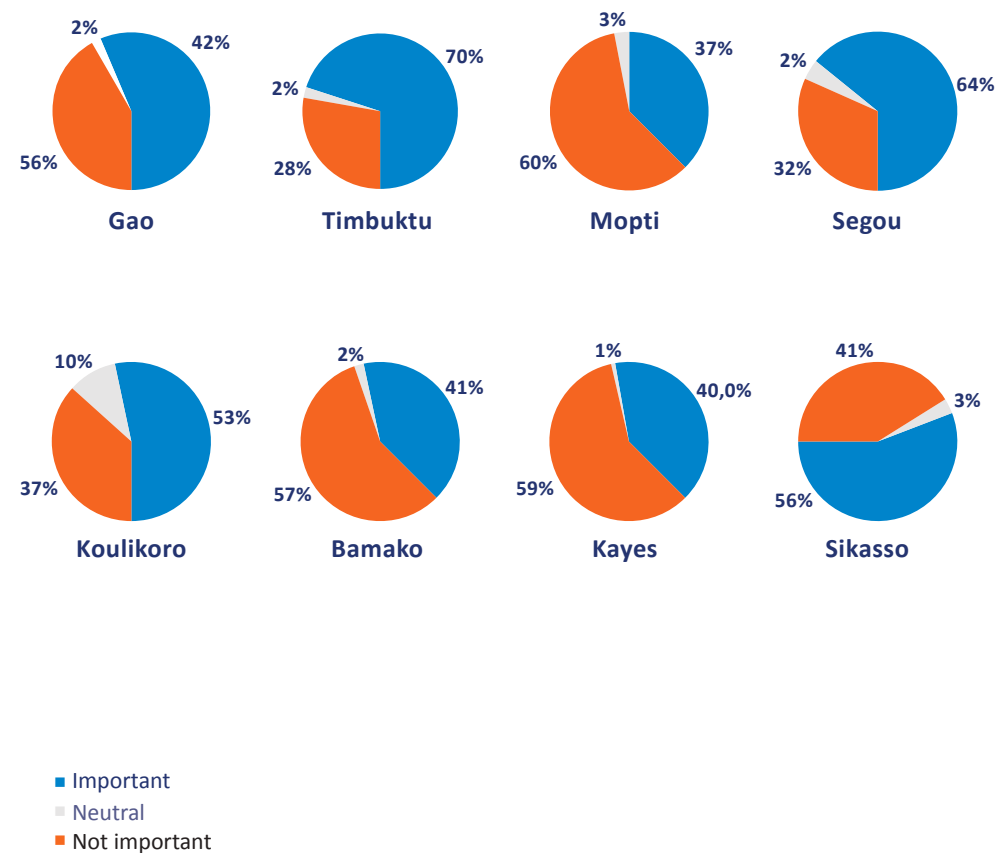


The Truth, Justice and Reconciliation Committee

There are clear regional differences about whether the government should sign an agreement with the rebels in the North. While Timbuktu, Gao, Koulikoro, Segou and Sikasso are in favour of the idea, respondents in Bamako, Kayes and Mopti found the issue insignificant.

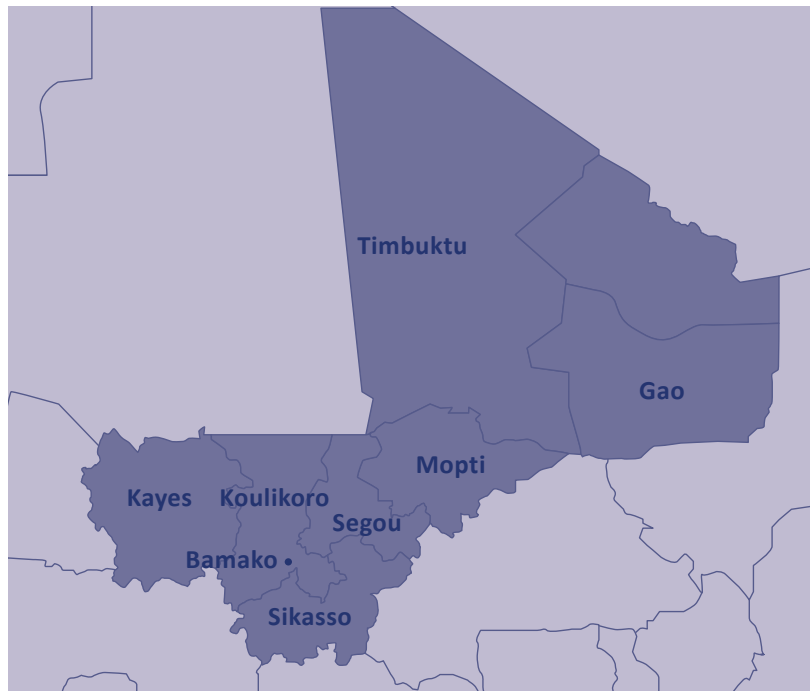


Is it important to sign an agreement with the rebels?

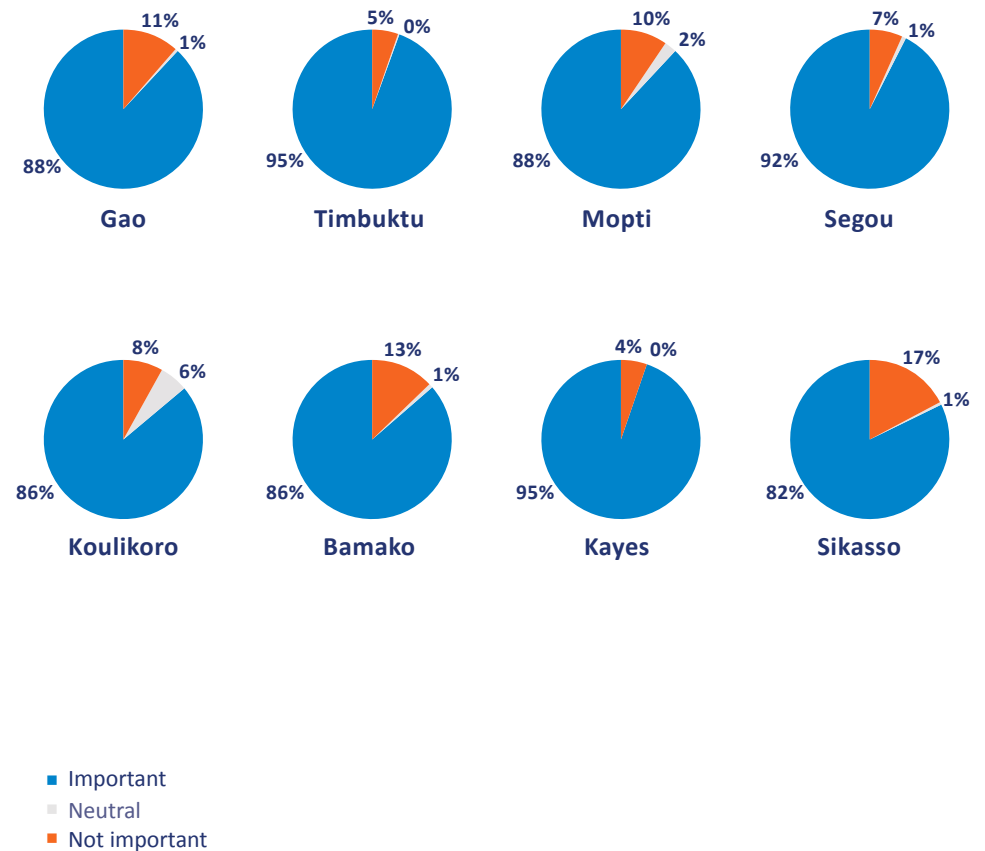


Prosecute the perpetrators of crimes

A majority of respondents believe it is very important to prosecute the perpetrators of the 2012 crimes. The percentages are higher in Timbuktu (91%), Kayes (89%) and Gao (85%). Respondents from urban areas are generally more in favour of prosecution.

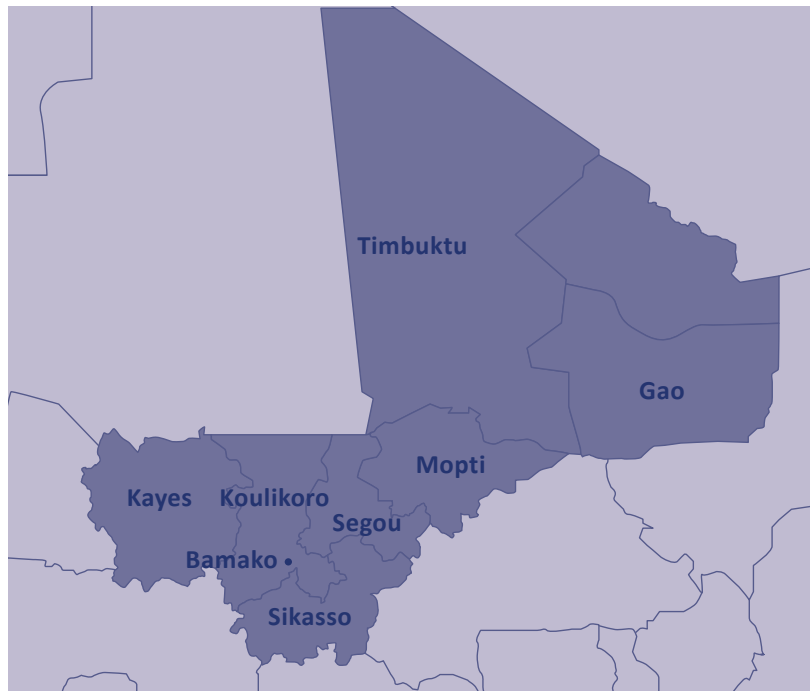


How important is it to forgive crimes committed in 2012 and move on?

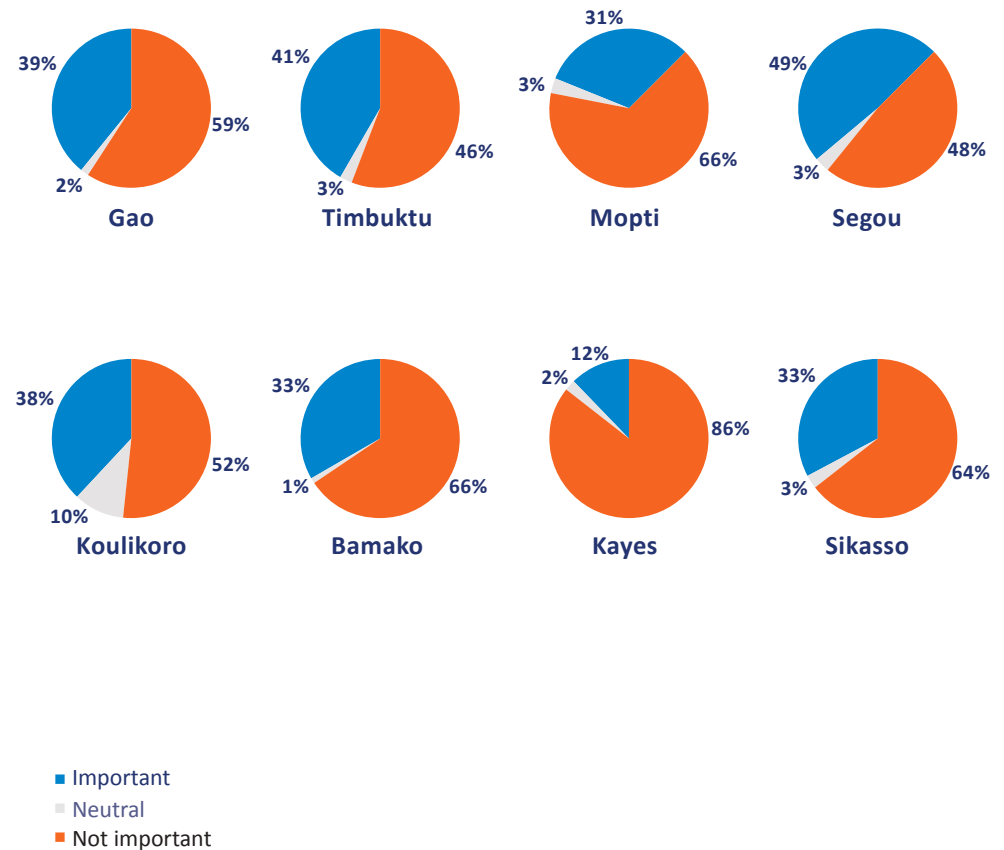


Forgive the perpetrators?

Most respondents do not believe it is important to forgive the perpetrators. It is interesting to note that residents in Timbuktu (41%) and Segou (48,5%) are more willing to forgive. In other regions 30-40% are willing to consider amnesty.



How important is it forgive crimes committed in 2012 and move on?



Some conclusions can be drawn

The first priority for the people of Mali in the field of transitional justice and reconciliation is **establishing the truth**. A second, equally important priority is **holding those responsible for atrocities and human rights violations to account**. Finding the deep causes of the conflict is also deemed important. Compensation for victims is also a priority, but it clearly comes after finding the truth and holding perpetrators to account.

There is some room for amnesties. In fact, there seems to be slightly more room for this kind of approach in the regions close to the conflict as compared to the regions further away.

Regarding victims' compensation, there is a clear preference to **compensate victims and their households directly** (65%). However, **investment in development projects in the affected regions** (45%) and **access to schooling for victims** (42%) are also considered as good compensation mechanisms. **Psychological aid** is also considered important (23%).

The Truth, Justice and Reconciliation Committee is still not widely known. There is still a lot of awareness raising to be done. There are clearly **high expectations** and the Committee now has to show it **can start to work** and deliver results. This report and the work of others (see Afrobaromètre, below), have provided a sound basis for more evidence based policies and problem solving.

Any transitional justice and reconciliation effort will have to take into consideration **regional differences** as well as **differences between urban and rural areas and between men and women**. They relate, for instance, to signing an agreement with the rebels, priorities for compensation, the willingness to forgive, etc.

Our survey supports many of the conclusions of the report by Afrobaromètre **“Perceptions populaires des causes et conséquences du conflit au Mali”** (Moussa Coulibaly, 2014).

The justice problem of Adama, as he told us

Adama's brother, who was 22 years old, was involved in the 'events' between the red berets and the green berets. He joined the army in 2007. On the night of the April 30th 2012 - in the midst of the events, Adama tried to contact his brother multiple times, but without success. Fearing the worst, Adama went to the military camps, to the hospitals and to the mortuaries to look for him. However, all Adama's efforts to find his brother were in vain. In fact, he has never seen his younger brother again.

There is now an official magistrate in charge of the case, seeking to discover what happened on that fateful night to Adama's brother and others. As a result of the search for the missing persons, the parents of the victims created an association. Adama and the other members of the association have been trying to bring those responsible to justice. Two NGOs, AMDH and Amnesty International, have provided 6 lawyers to support them in their case.

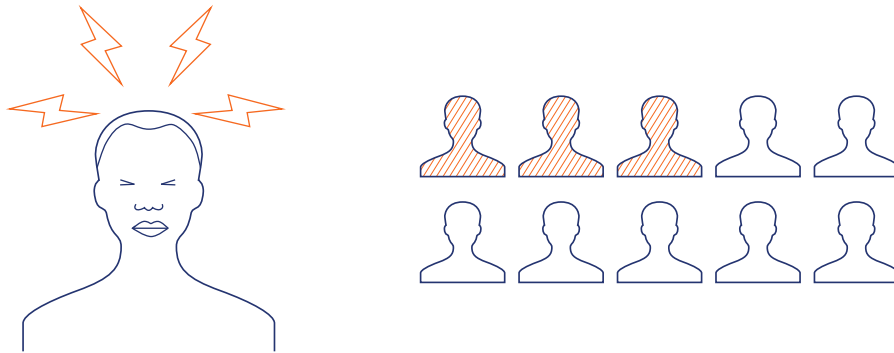
We are living in country with the rule of law. Those who killed our dear ones didn't think of that. But it is this very rule of law, this same justice that we intend to use in order to make them accountable for what they did. We also expect payment of damages for losing our brothers and sons.

3. The daily justice problems of the Malians



The need for justice

Daily justice problems



30% of the Malians experienced one or more justice problems within the previous 4 years.

Several justice problems



Respondents who reported at least one problem had to deal with **2,15 problems** on average in the last 4 years. Justice needs arise when people need protection for their important interests. Examples of justice needs are: divorce, disputes over land rights, theft or domestic violence.

Compared to other countries Malians report less justice needs

Canada 2009

45% of interviewed Canadians had encountered some sort of serious justice need. Consumer problems concerning disputes over bills and disagreements over collection of money were reported most often.

Kazakhstan 2011

A study from the Open Society's Justice Initiative reports that 56% of the respondents experienced justice needs. Problems related to employment, medical services and consumer disputes were the most prevalent instances of justice needs.

Indonesia 2013

A study by HiiL found that 16% of the respondents from five Indonesian provinces experienced one or more problems. Petty crime, administrative offenses and money related problems were the three most frequently occurring problems.

The Netherlands 2013

A HiiL study illustrated that 46% of the Dutch people experienced one or more problems in the last 4 years. The individual problems most frequently mentioned were: buying defective goods, value of property tax and consumer problems related to housing maintenance services.

Yemen 2014

A HiiL study found that 94% of Yemenis experienced one or more justice problems in the previous 4 years. Crime, neighbourhood and land disputes were the most frequently occurring justice problems.

[illegible]

4. The consequences of unresolved problems



The effect of unresolved justice problems on the citizens

The domino effect of each unresolved justice problems on a Malian citizen includes:

- Sleepless nights and many hours of stress
- 25% of justice problems are proven to lead to health problems
- Economists have shown that the poorest suffer the most: they frequently experience insecurity at home (crime, domestic violence); they are unaware of their housing and land rights (farmland); and the poorest have the least job security
- Research has confirmed that legal insecurity leads to lower investments in households, businesses and the specialised skills required to obtain better jobs
- Every dollar and hour spent on protection against crime or extortion, will not go to education, sanitation or health care

National crisis's such as the 2012 events, impact individuals. Individual justice problems if untreated can escalate to the national level. Research has proven that sustained feelings of injustice can be a catalyst for violence and ultimately lead to distrust in governments.

It is important to avoid this from happening as these feelings, if untreated, have the potential to disrupt the major advancements that Mali has made towards strengthening the foundations of the Rule of Law.

* "World Bank. 2011. World Development Report 2011: Conflict, Security, and Development. World Bank."

Every justice problem that is either prevented or resolved has a direct and positive contribution to GDP and human development in Mali

Improvements in coping with justice problems ripples positively throughout the development agenda.

This leads to:

- More fairness in family relationships
- Better education
- Improvements in land and agricultural productivity
- Improvements in housing conditions
- A more responsive local government
- More people escaping from extreme poverty

* Commission on Legal Empowerment of the Poor (2008), Making the law work for everyone, 2 vols. (I; New York: United Nations Development Programme)

As a consequence, governments and civil society organisations from around the world therefore seek to reform justice systems and include rule of law pillars within their programming objectives. Unfortunately many of these reform initiatives have not yielded the expected results.

Rule of Law still remains a challenging area to demonstrate intervention success

Where should our focus lie? Should we:

‘Strengthen griot systems? Strengthen informal tribunals in villages? Train judges? Equip them with computers? Hire prosecutors? Set up legal aid funds? Build community justice centres? Sponsor radio shows?’

And how do we know if we have been successful? Is it when:

‘More judges and prosecutors deployed? More judgments? More (or less) people in custody? More awareness of rights? Higher rankings on international governance or rule of law indexes?’

Experts agree that the inability to show quick wins and measurable results is becoming a major barrier to entering or staying in the Rule of Law programming area.

5. The key problems and the paths to justice for Malians









The categories and individual problems

Categories of problems*

-  **37%** Land
-  **26%** Crime
-  **25%** Employment

Individual problems

-  **11%** Theft
-  **6.6%** Property/use of land
-  **5.9%** Difficulties in accessing schooling by children
-  **5.8%** Disputes over water for irrigation
-  **4.4%** Disputes with neighbours about limits of passage rights or access to property
-  **4.2%** Land grabbing

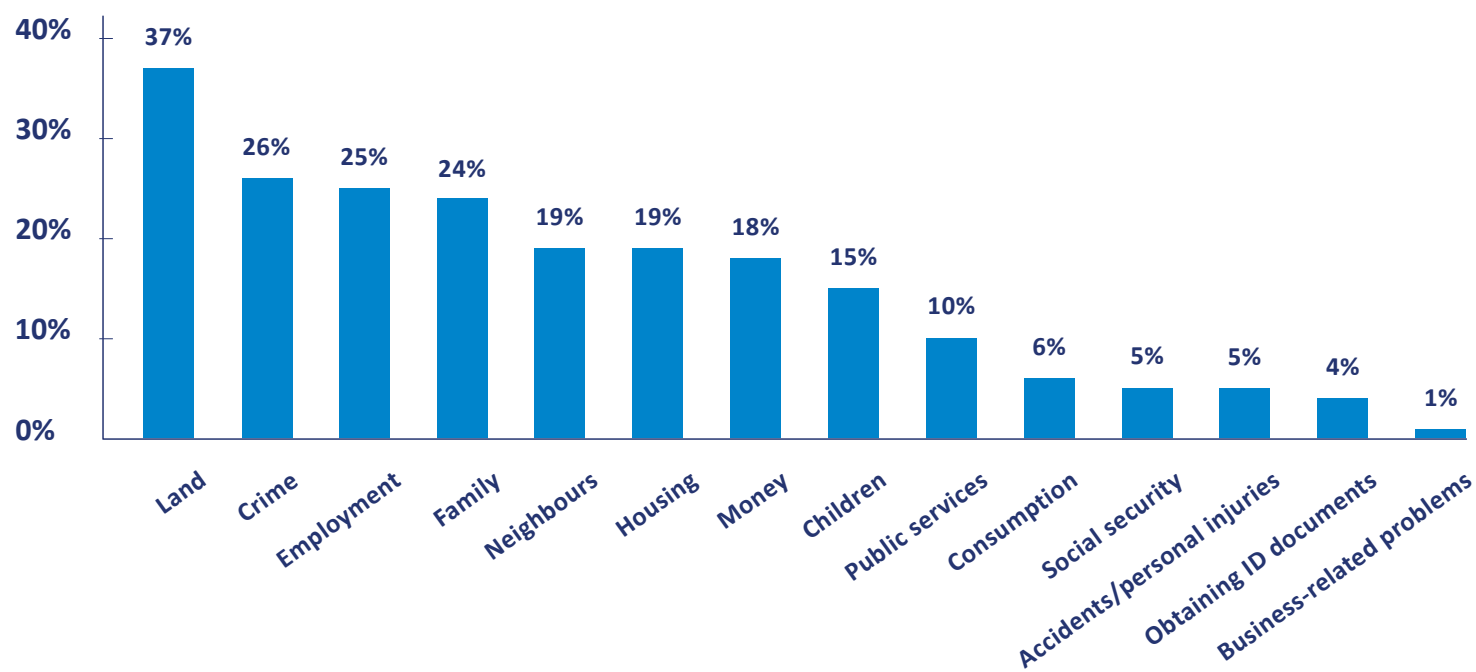
The data highlighted 91 different justice problems in Mali, in 14 categories. The team asked respondents about 6 types of crime problems such as theft, rape, violence etc.

When the problems were aggregated into their categories it became evident that land, crime and employment problems are the biggest problem categories.

* The categories of problems consist of several individual problems

What are the justice problems faced by Malians?

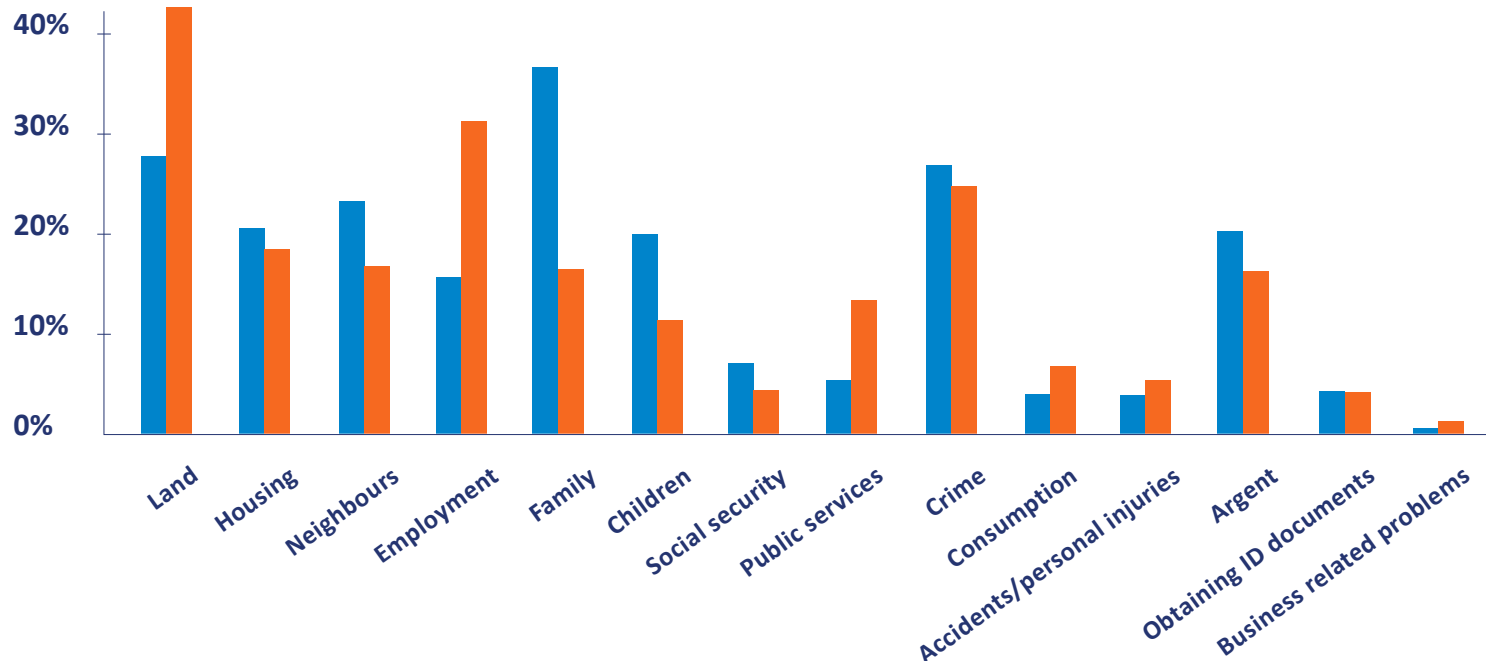
Categories of problems



Men - women: the most common problems?

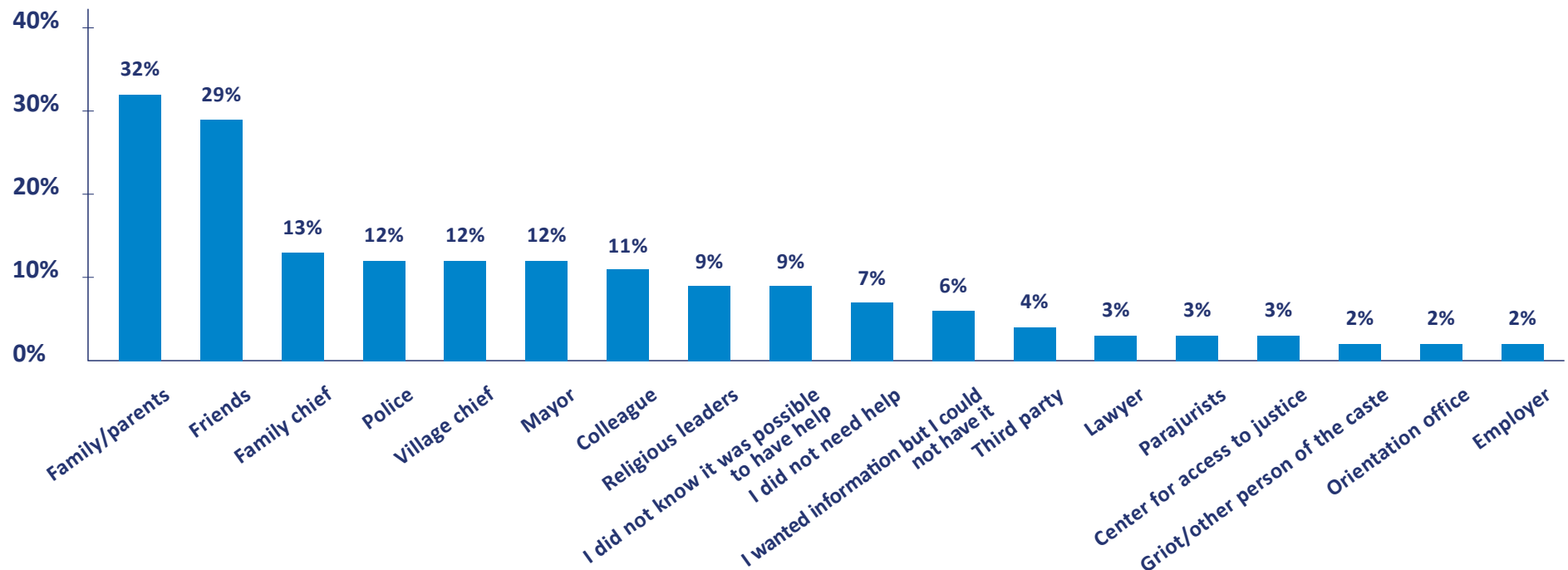
Categories of problems

Land, crime and employment problems are the top three most frequent problems Malian men encounter. Although land problems and crimes are prevalent amongst women as well, family related issues are the most common. Women also experience more money and children related troubles than men.



Many Malians do not know where to find the right information

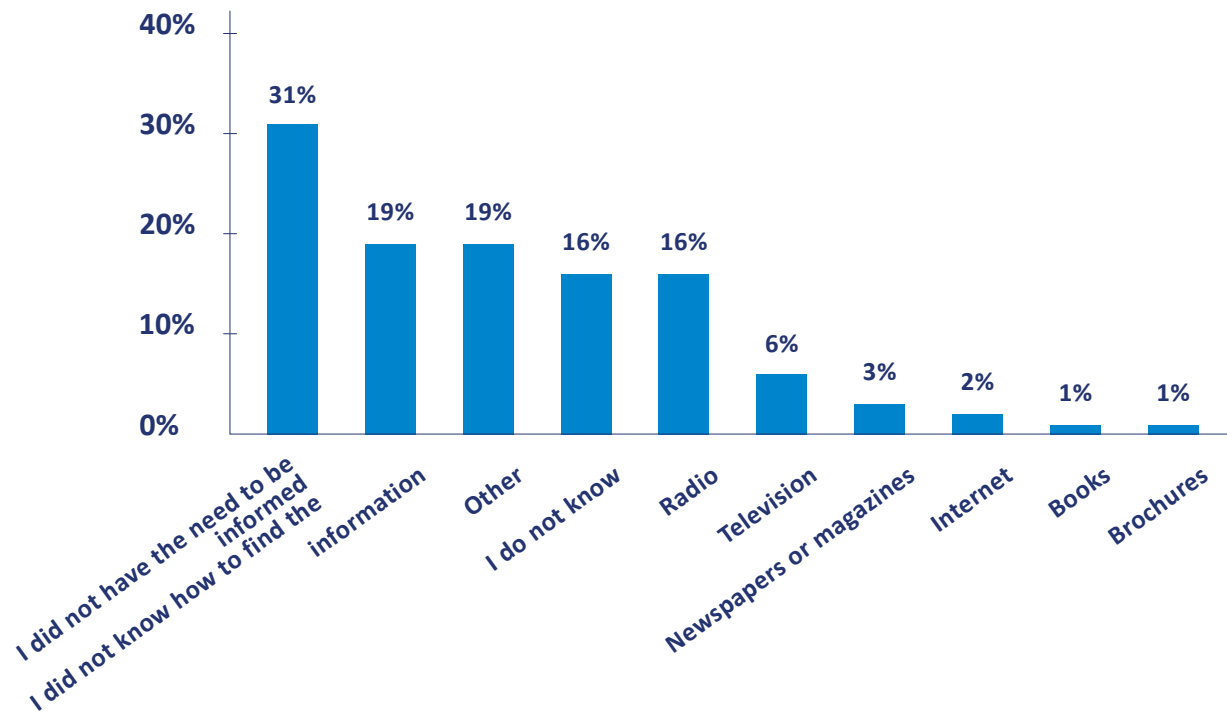
Which person or organization has provided you with information or advice in relation to your problem?



The power of community in Mali is high. Our data showed that Malians with justice problems sought information among family (32%), friends (29%) and family heads (13%).

Many Malians do not know where to find the right information

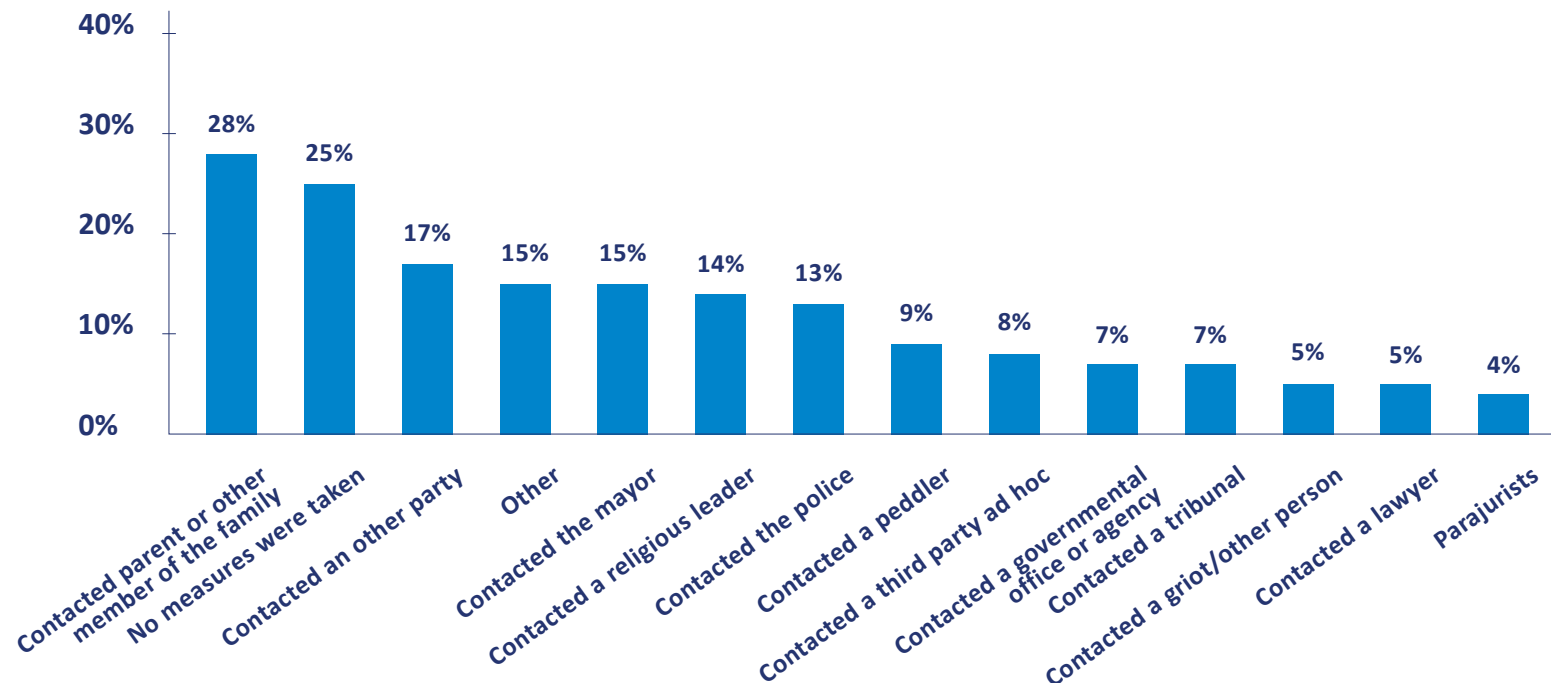
Sources of information



Many Malians (19%) did not know what to do when a problem arose as they did not know how to find relevant information. A substantial amount of respondents did not feel they needed to be informed (30%).

Lack of information leads to inaction

What did you do to solve your problem



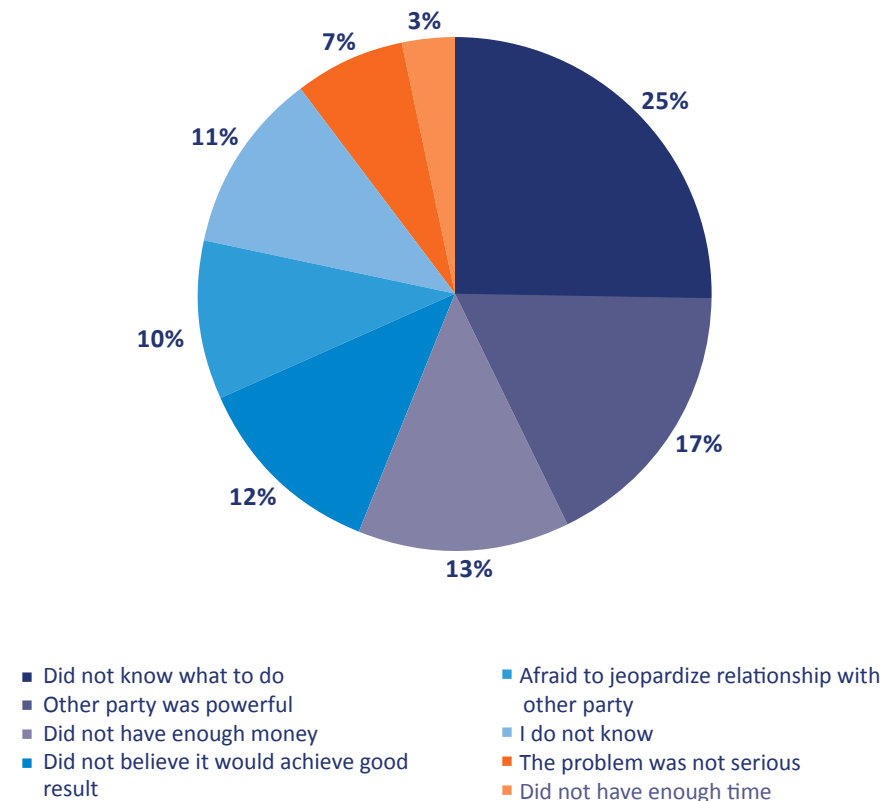
The majority of Malians (75%) that faced a justice problem are proactive and rely on their family (28%) to provide them with suitable information. We still saw however that around 25% did nothing to resolve their problem.

Lack of information leads to inaction

Justice systems have been designed to nullify power differences amongst parties. Interestingly almost 17% was discouraged by the powerful status of the other party. This is worrying.

A large majority (25%) of those who did not deal with their justice problem did not know what to do. There is a clear need to improve the supply of legal information.

What was the reason why no action was taken?

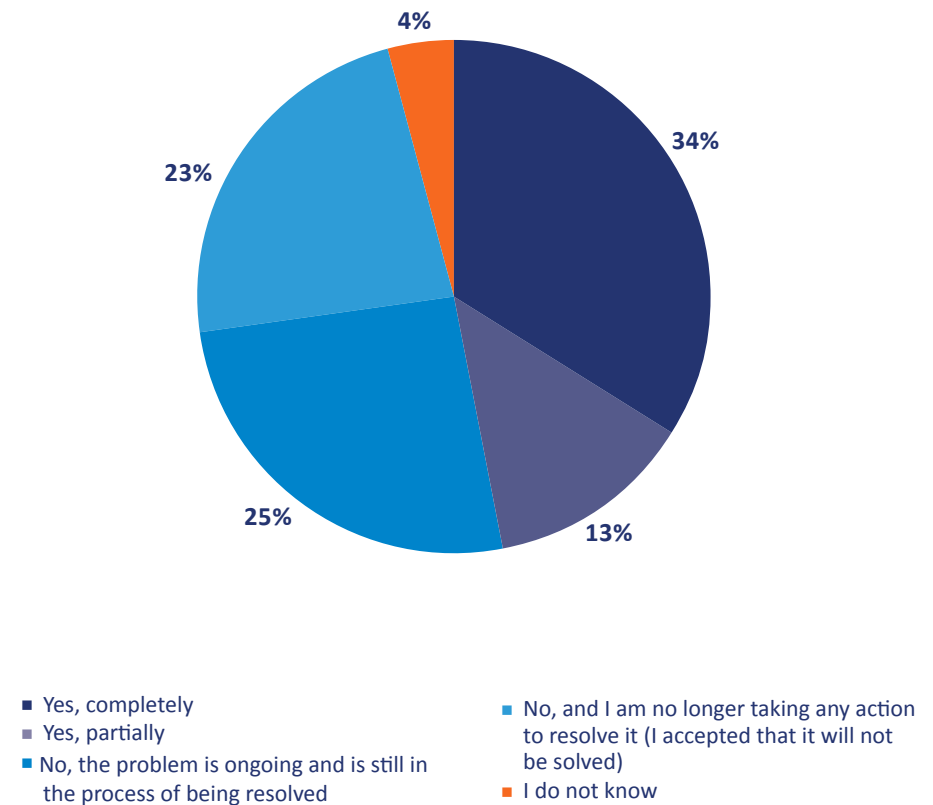


The path to justice

Did you find a solution?

Although confidence levels are high the data has shown that only a quarter of people feel that their problem has been completely resolved. What jumped out the most was that 23% reported that they gave up on resolution. This suggests that people do not receive adequate closure to their problems.

Has your problem been resolved?



6. Zooming in on land problems



The needs for justice of the villagers who try to reclaim their land, as they have told us

Mr. Diallo's father was granted 200 hectares of land by the colonial authorities. Mr. Diallo was not satisfied with the 200 hectares and started to use his influence within the government administration and justice system to steal an extra 800 hectares of land. In 2012, he was able to use his influence again to put the people in his way, namely the whole village council in jail.

The people of the village livelihood centers around agriculture, fishery and cattle breeding. In essence this land grabbing has put their very existence at stake. Currently, Mr Diallo asks for a fee of 3000 FCFA per cow if the villagers' cattle wish to graze on his land.

The villagers are concerned that the dispute could escalate even further and end in more violence if no solution is found quickly. A few weeks ago, a boy let his cattle graze in the neighborhood and was ordered by one of Mr. Diallo's children to handover his cattle to them as punishment. The boy refused and was beaten and tied up. His cattle were then stolen by Mr. Diallo.

The villagers still believe that it is possible to come to an agreement with Mr. Diallo without the intervention of the official justice systems. They sent many high level delegations, comprising of imams, cadis and village elders to Mr. Diallo to negotiate on their behalf. Their last hope is that finally justice prevails and that they get their land back.

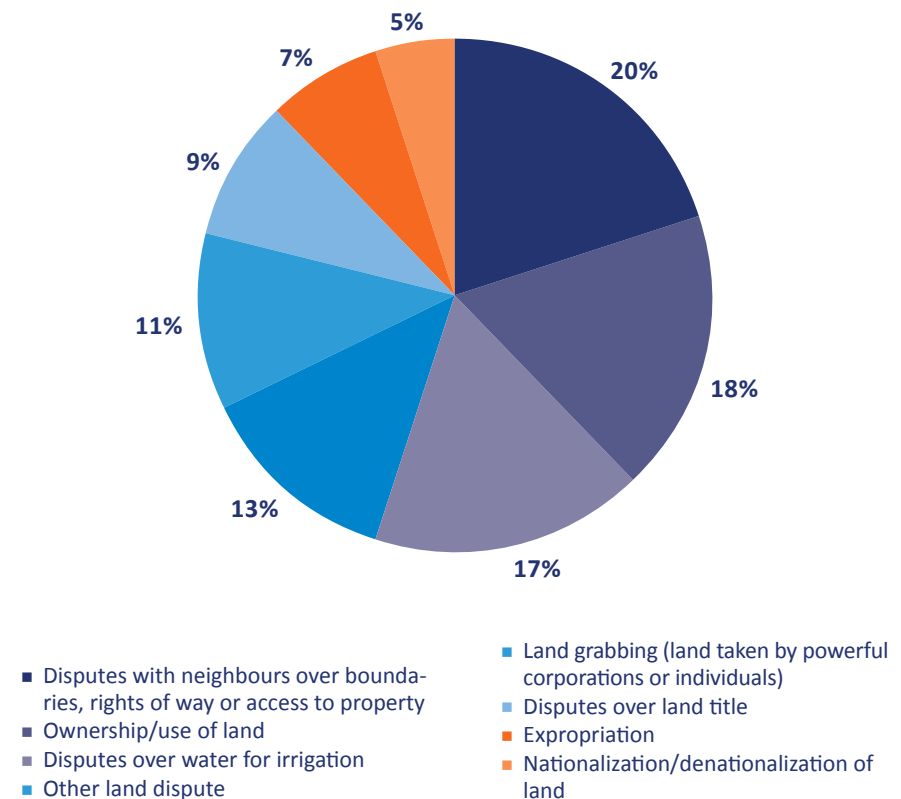
Land disputes are often with neighbours or about ownership

Land is one of the most important assets in the lives of people. Security of tenure and clear rights empower people to use farmland in a more productive way and to invest in their houses. Secure access to land is one of the pillars of legal empowerment.

Land disputes arise across the world. Best practices for resolving land disputes are available and can be integrated into what already works in Mali.

Data shows that 20% of all land disputes are related to disputes with neighbors over boundary. 18% is about land ownership.

Which land issue are you facing?



Disagreements over land often involve other family members. The word 'grabbing' is often mentioned by respondents when land issues are discussed. Other issues that arise have to do with land rights, passage and access.

Land problems take a lot of time and money and tends to be very stressful to resolve. These valuable resources cannot be used for more productive activities, such as farming or building a business. As the villager's story reveals some of these land disputes can escalate into violence .



Land problems cause a lot of stress and negative emotions

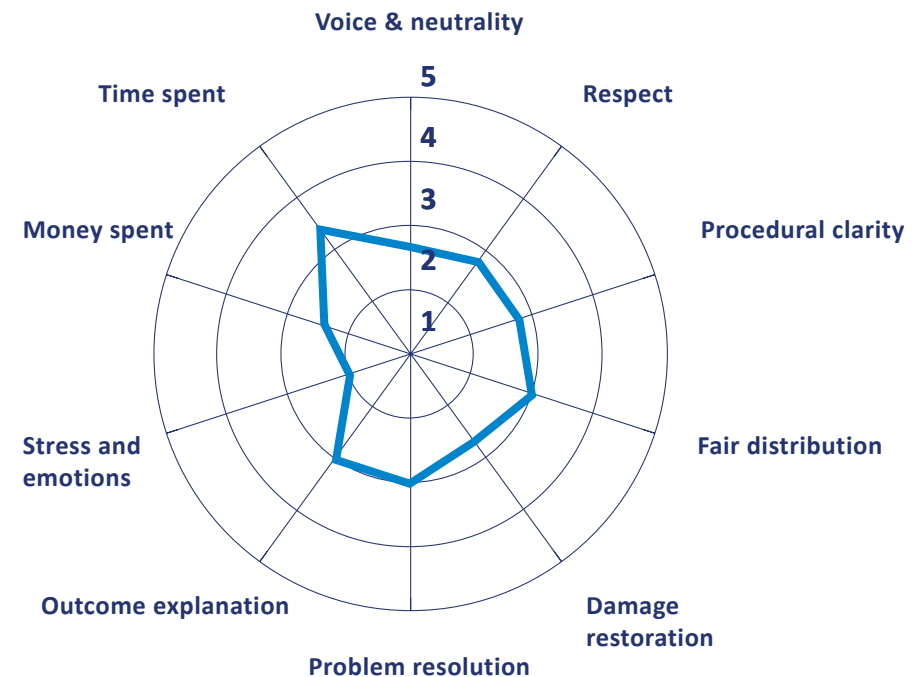
How do Malians evaluate the existing channels of access to justice regarding land issues?*

For land disputes Malians evaluate voice, respect, procedural clarity and better damage restoration as low.

Finding justice in land disputes is a challenge for the people of Mali - stress and emotions run high. Additionally, the data has showed that resolving land problems comes with a substantial price tag.

* Figure includes formal and informal processes of conflict

Dimensions of justice - land issues

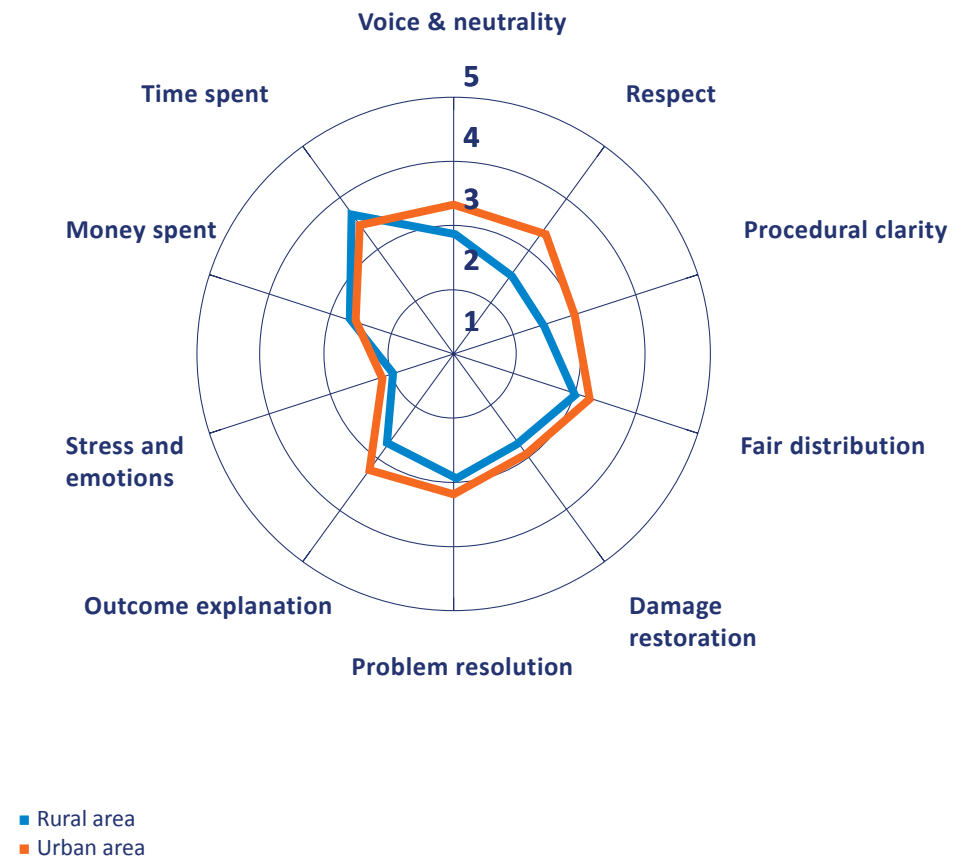


The problems cause a lot of stress and negative emotions

Differences are apparent between urban and rural regions.

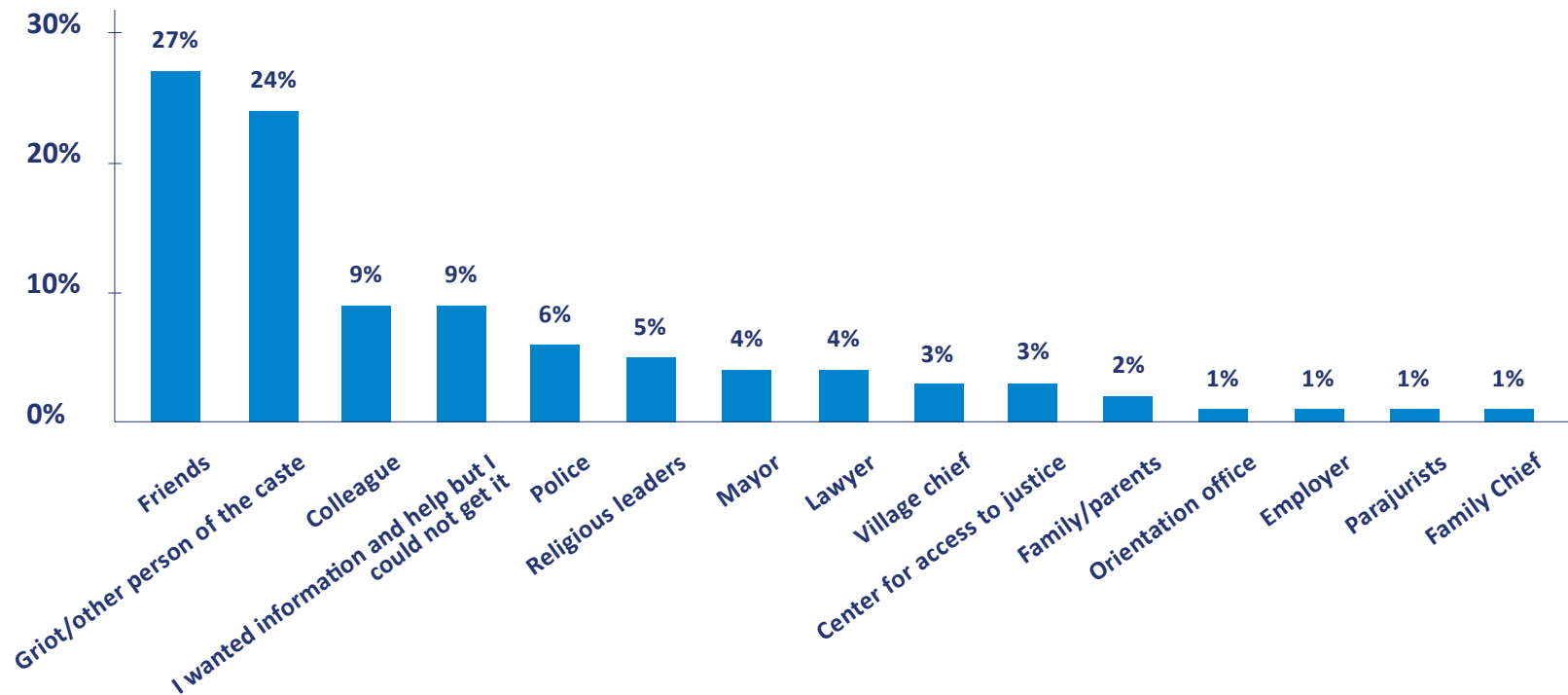
The scores are lower in rural regions, meaning that resolution process are evaluated more negatively.

Dimensions of justice - land issues



Maliens seek information and advice from informal institutions

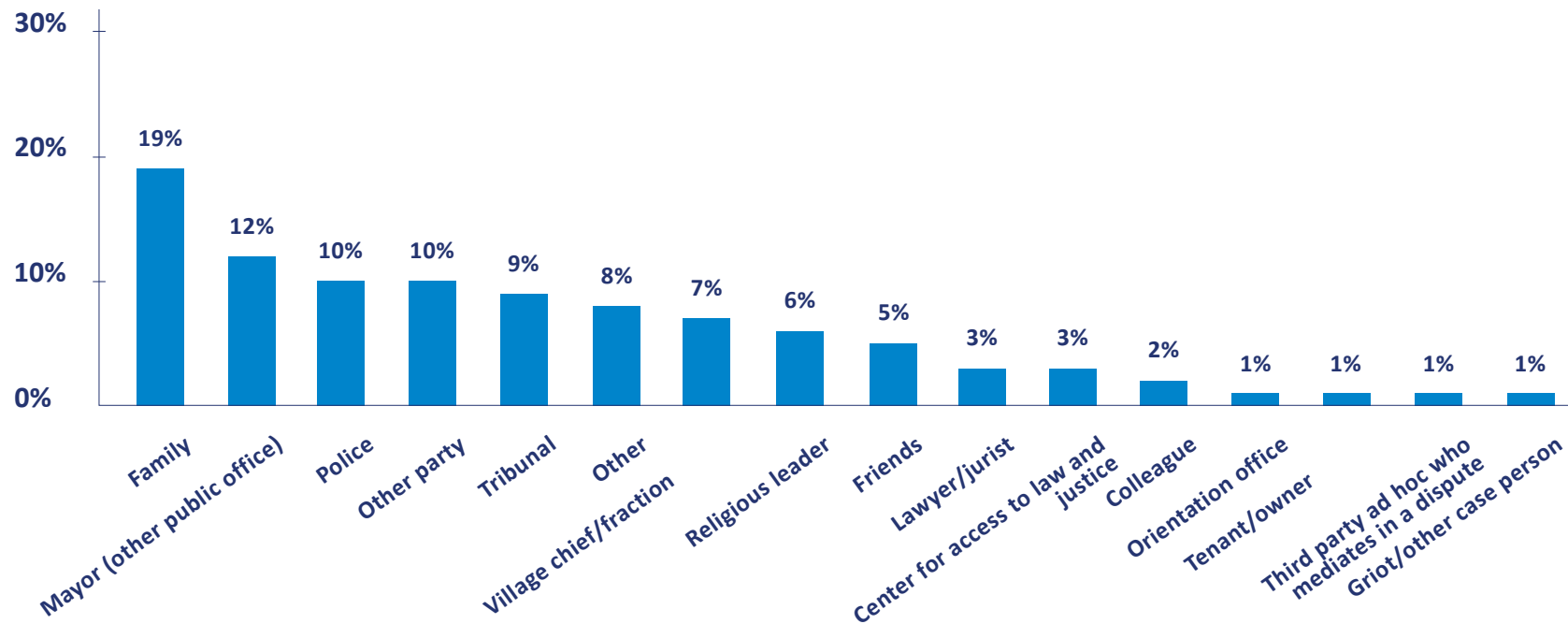
Sources of information



Most people found Friends (27%) and Griots (24%) to be the most helpful sources of information and advice

Maliens seek information and advice from informal institutions

Resolution mechanisms

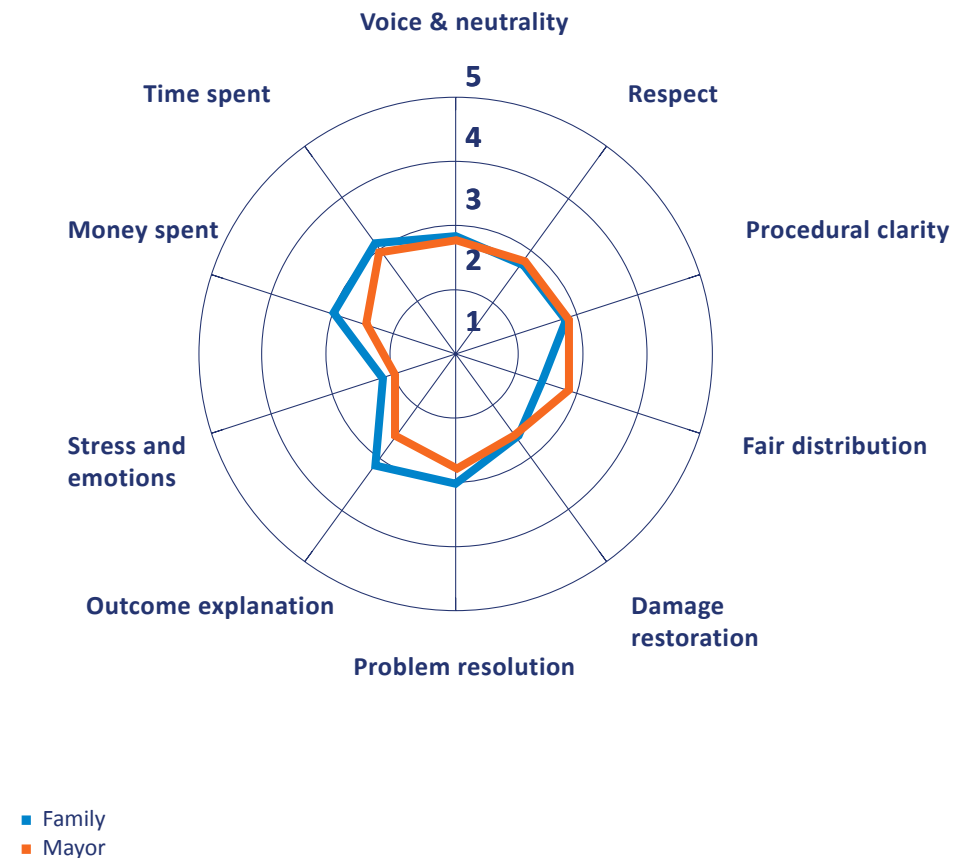


Family (19%), Mayors (12%) and the Police (10%) are the most important dispute resolution mechanisms for dealing with land disputes

Justice dimensions - Comparing relatives to mayors for land problem resolutions

Both relatives and mayors have strong and weak points: Mayors are more expensive and the procedure is more stressful. Moreover, mayors are not always successful in explaining the outcome and in resolving the problem. On the other hand, respondents do not feel they get a fair distribution when family members are involved.

Dimensions of Justice - resolution of land issues



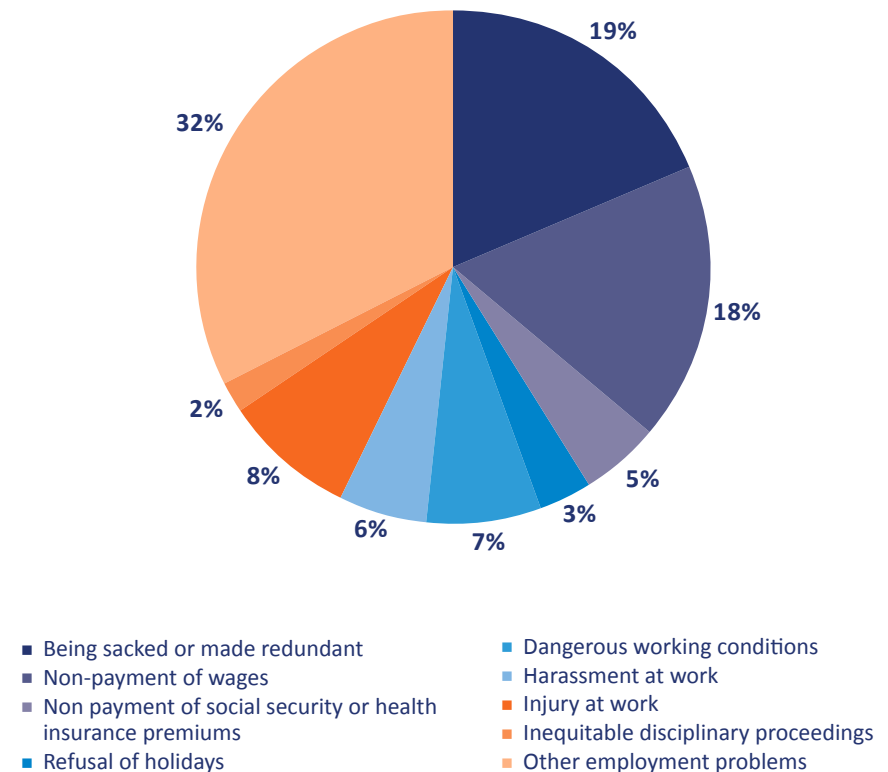
7. Zooming in on employment problems



When people talk about problems with their employers it often concerns being let go from work or not receiving their salaries. The words **'dismissal'**, **'salary'**, **'payment'**, **'wages'**, and **'accident'** are frequently mentioned.



What employment problem are you facing?



The story of Baba, as he told us

Baba is 54 years old. He is married and a father of 5 children. In 2001, the workers of a mine company went on strike for better salaries and working conditions. The company disapproved of the strike and started an official complaint against the workers.

The Inspection du Travail arranged a draft agreement for the parties to sign - according to which the workers could resume their work. Despite the draft agreement, the employer suspended the 21 leaders of the trade union for three months. At the end the 3 months, the trade unionists were let go altogether.

The appeal court ruled that the company should pay damages to the employees. The tribunal de premiere instance in Kayes sentenced the employer to pay the first part of the damage, an amount of 172 million CFA.

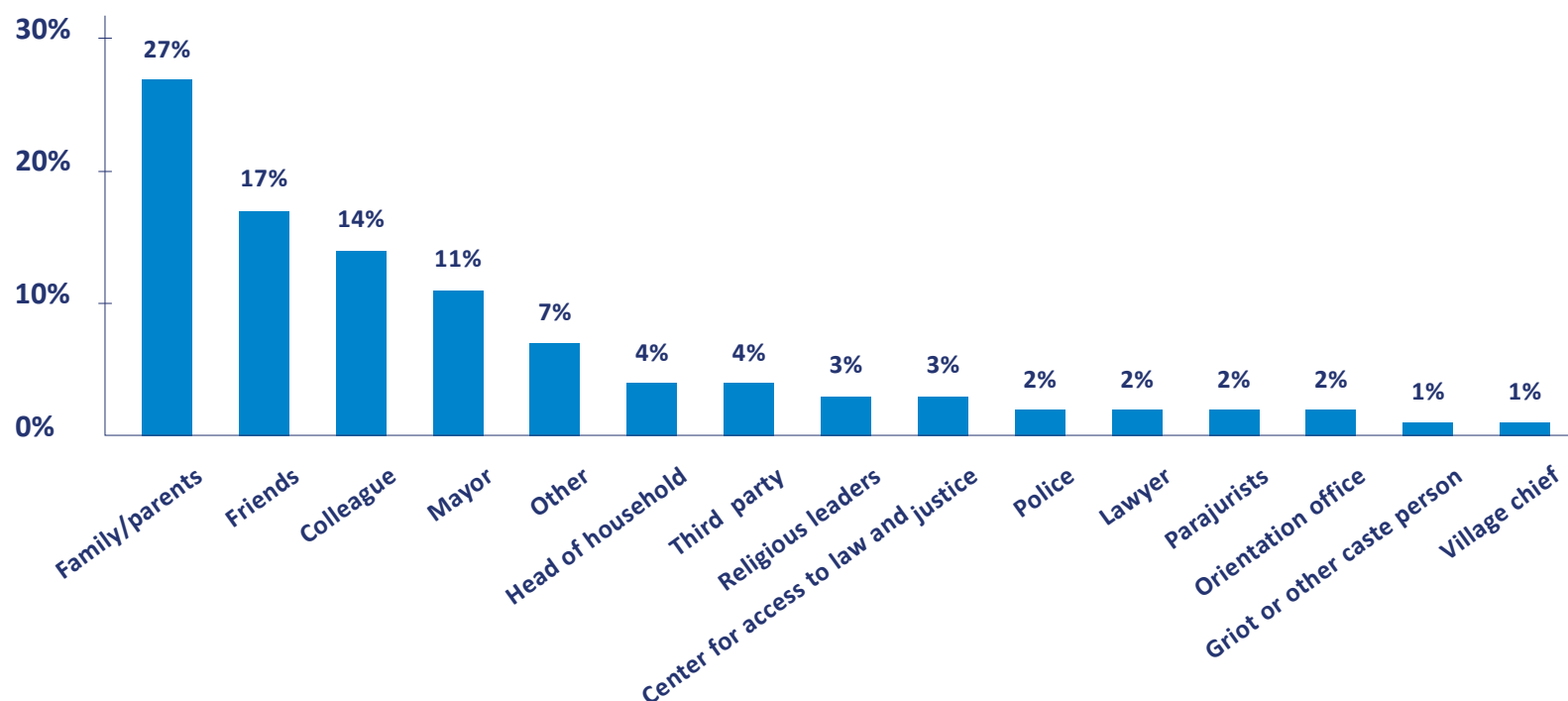
To make things worse, the lawyer that they had

engaged gave each worker only 1 million and kept the rest for himself. The impact of the situation has been catastrophic for Baba, his colleagues and their families.

When Baba managed to find another job in another mine, his former employer told whis new boss that Baba is a trade unionist - therefore a troublemaker. He was fired instantly. As he could not pay his rent in Kayes, he and his family were kicked out of their house.

Where do people seek information and solution to employment problems?

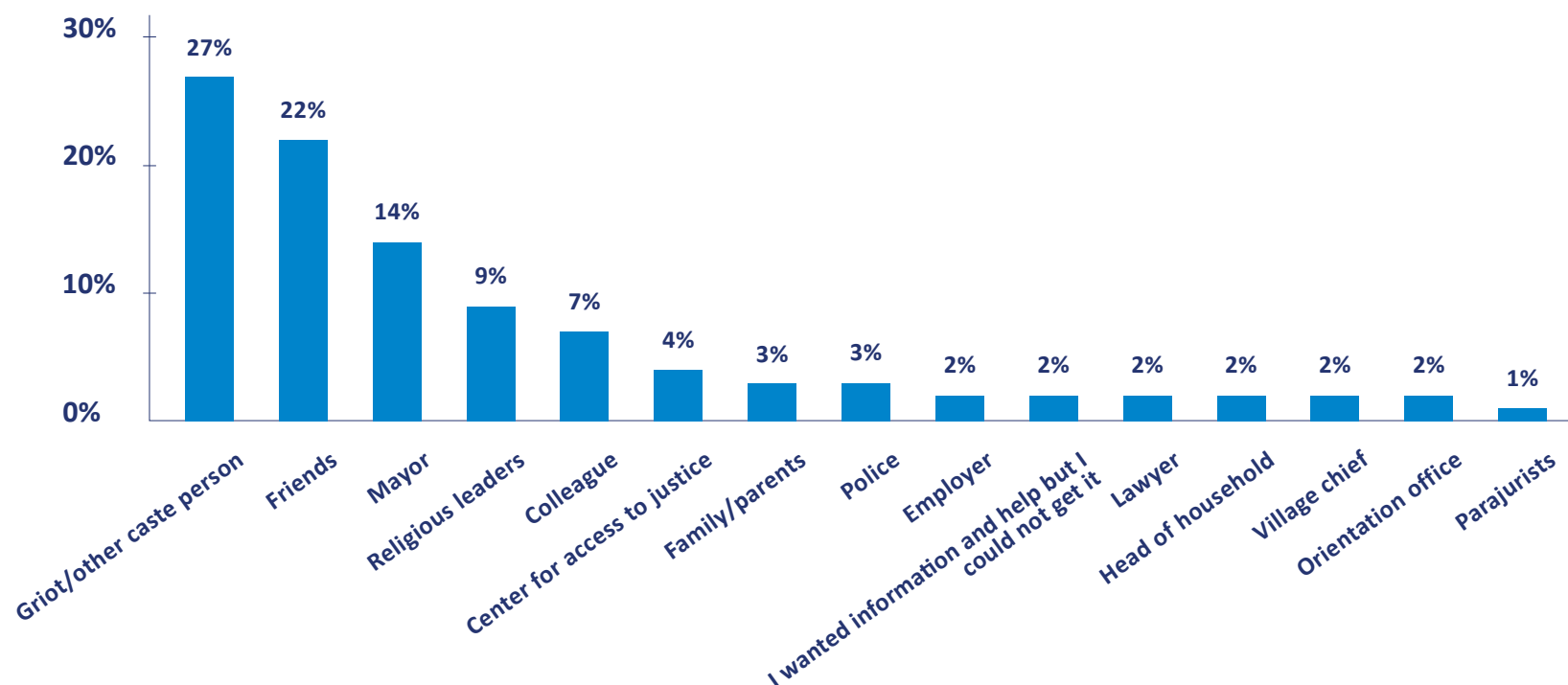
Process to solve the problem



Families and parents are frequently important actors in the resolution process.

Where do you seek information and the solution to employment problems?

Information



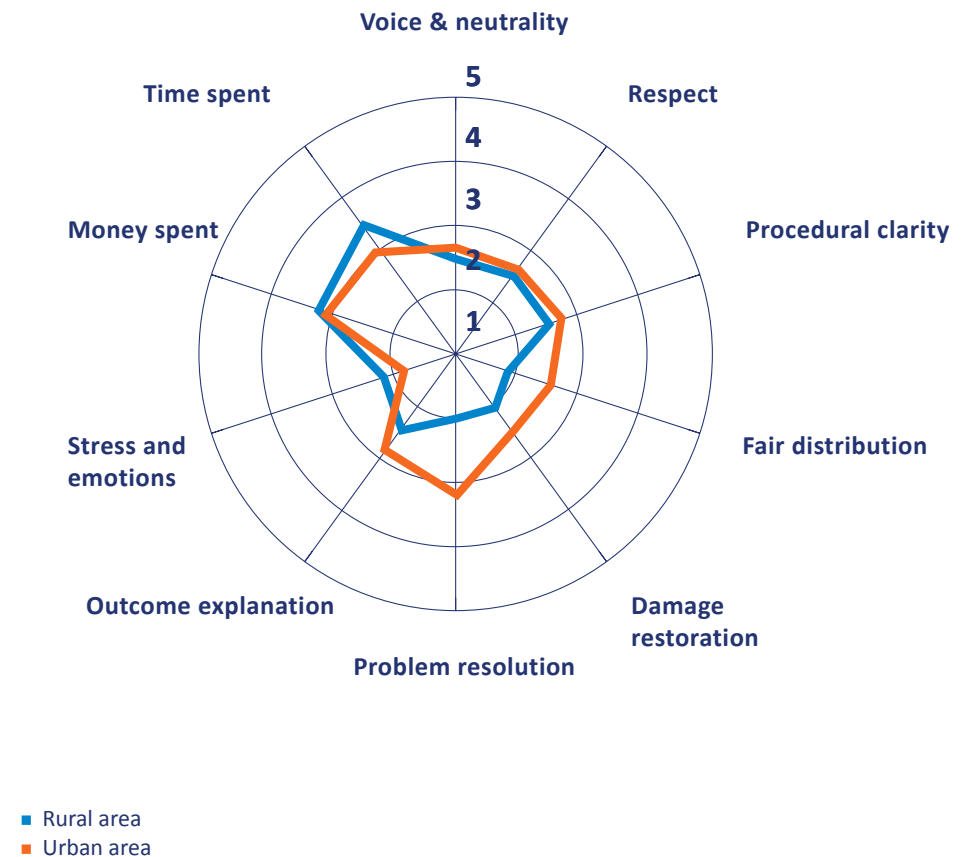
Informal institutions (such as griots, mayors, religious leaders) are considered vital actors for the spread of relevant information and advice.

The impact of the social environment on the dimensions of justice related to employment

Overall employees assess the existing processes with low scores on stress and emotions, damage restoration and fair distribution.

Lastly, employees in rural areas are more negative about processes – particularly with regard to resolution, explanation and fair distribution.

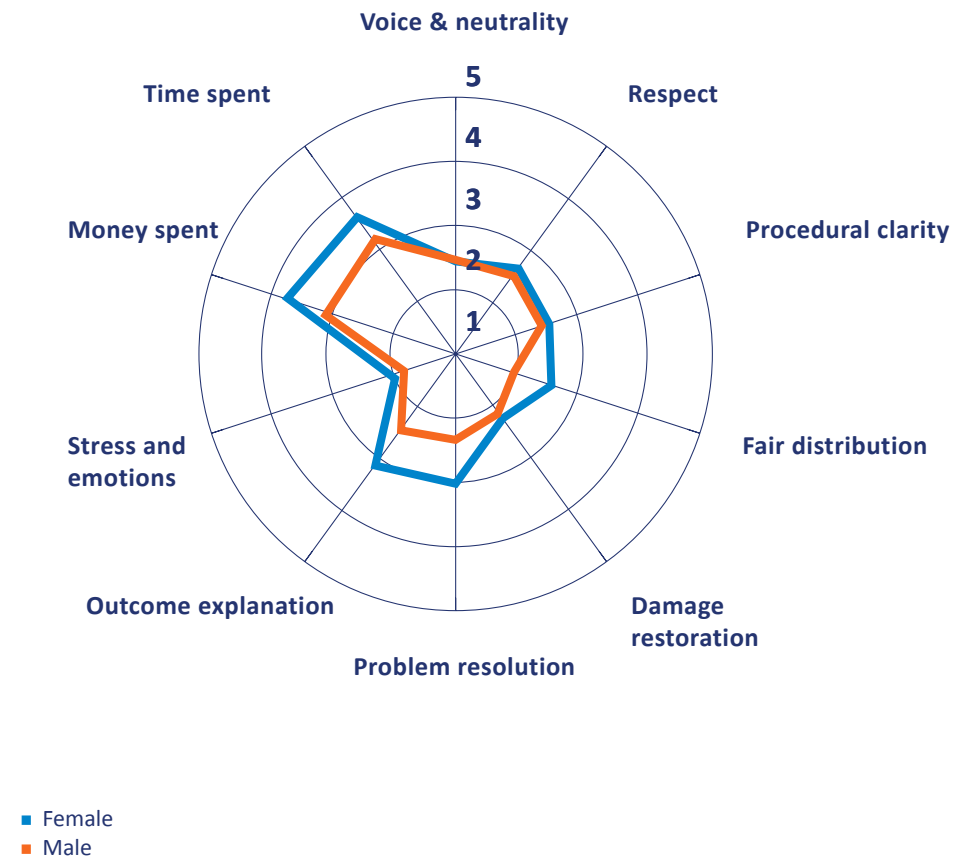
Dimensions of justice - employment



Gender and dimensions of justice related to employment

When we break down the analysis for men and women we see that men are more negative in their evaluations. However, we should mention that more men are part of the labour force than women. They are also overrepresented in the employment problem category.

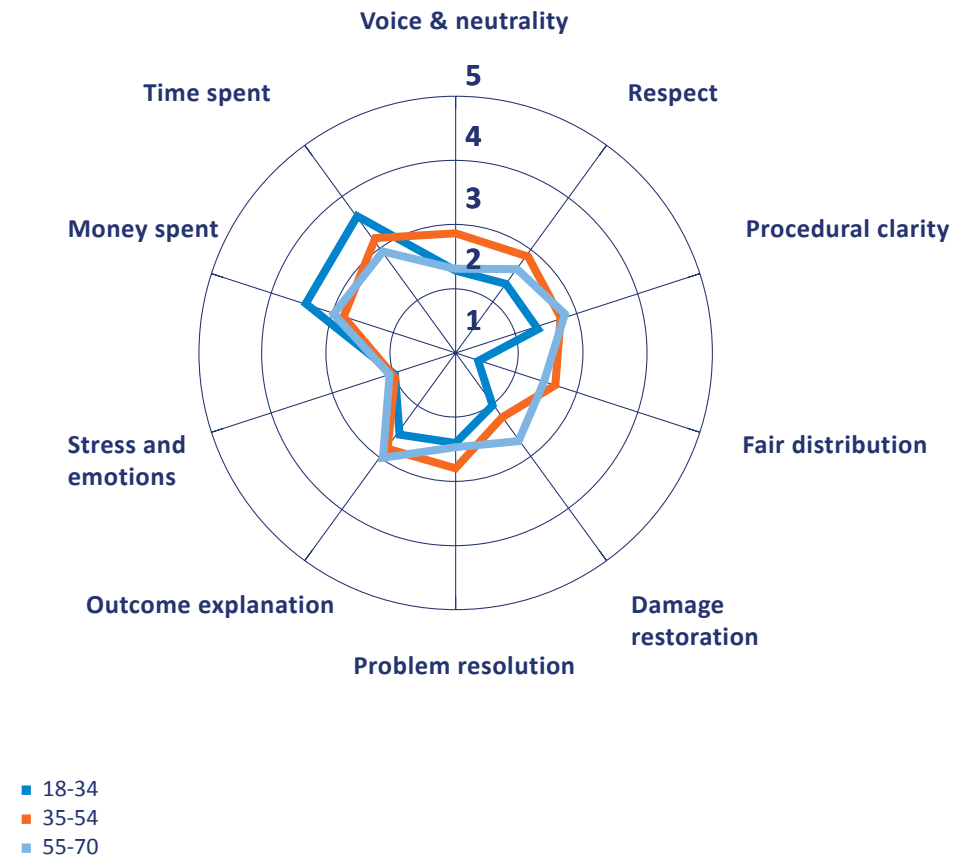
Dimensions of justice - employment



Age and dimensions of justice related to employment

When we look at the different age categories it is clear that younger employees are unhappy about fair distribution.

Dimensions of justice - employment



8. Zooming in on family problems



The story of Aminata, as she told us

Aminata has been married since 1993, and has a 14-year-old daughter. She had a religious marriage, but never a civil one. She begged her husband to celebrate their civil marriage, he always promised to do so, but never took action. Since the beginning she noticed that her family-in-law didn't approve of her - as she had been educated in school and they feared that she would be dominant in the family.

The relationship turned dysfunctional and Aminata decided to separate from her husband and move to another room in the house. She cannot file for a divorce as officially no civil marriage took place.

She assisted in building the house that they now live in but she has no proof that she contributed to the house financially. The truth is that her husband never contributed much to the household finances she was the major bread winner. Now Aminata cannot leave the house as he will accuse her of having abandoned him and she will lose everything. There is nothing to

stop him from day marrying a second wife and kicking her out of the house.

She does not know what her possibilities are. She feels totally humiliated by the whole situation.

Exploring the family category

22% of family problems are problems related to divorce and separation. 18% involve issues of inheritance. Custody rights and difficulties obtaining maintenance often occur as a result of divorce and separation. 39% of family problems are resolved – still many are ongoing or abandoned.

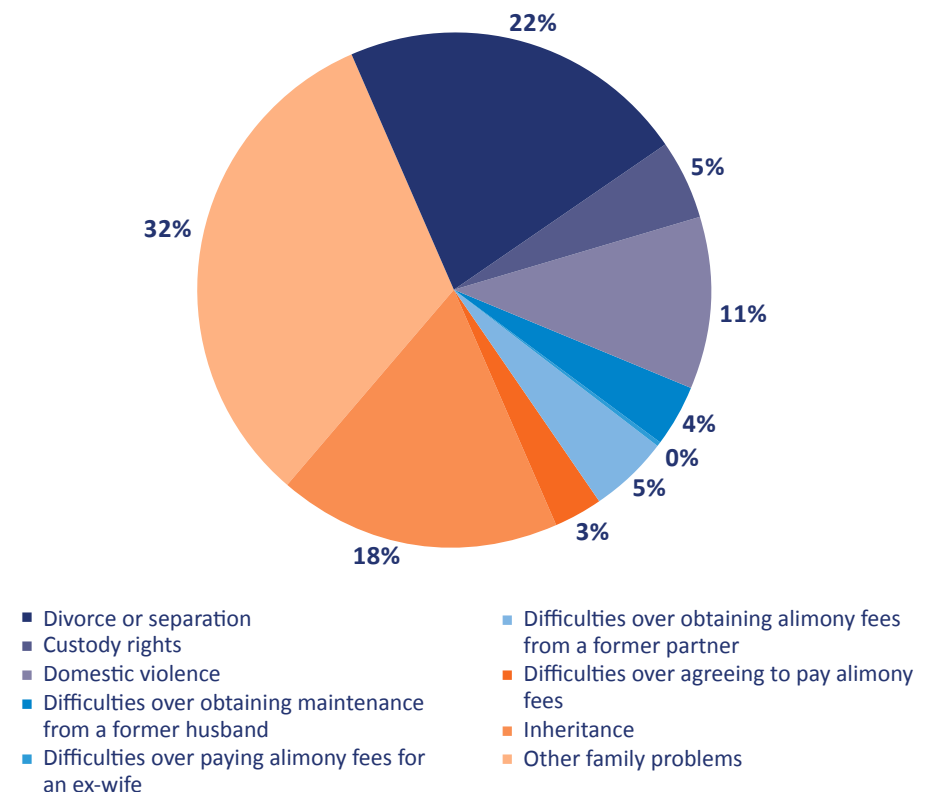
Unequal power distribution - husbands are favoured

Relatives play an important role in resolving divorce and separation issues. Interviews have demonstrated that relatives often have a bias towards husbands.

Women are reluctant to approach formal institutions

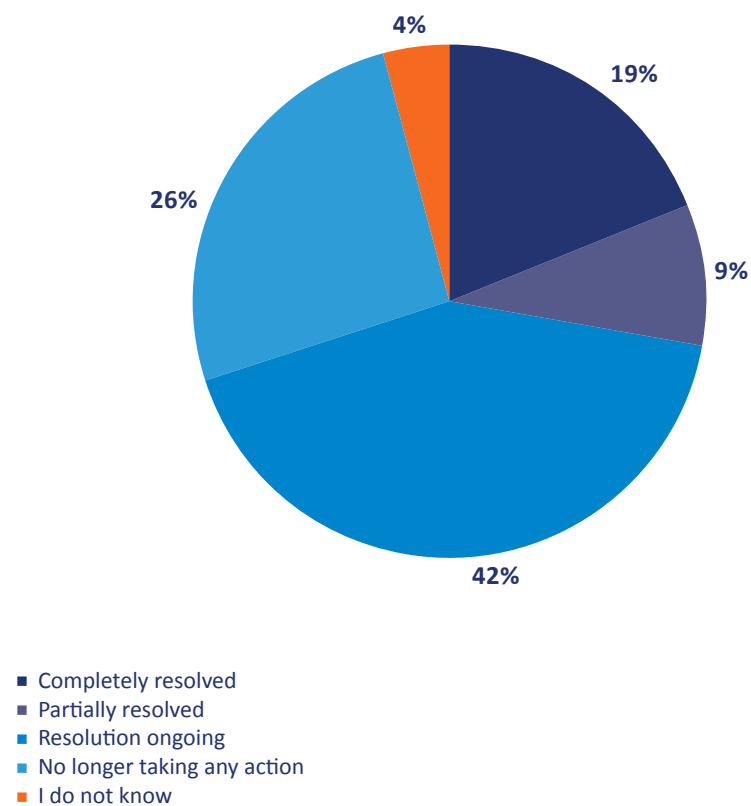
Interviews have also indicated that women are apprehensive in involving formal institutions due to the consequences of doing so. Many women have reported that problems may escalate if they involve these formal institutions. This fear of potential consequences prohibits these women from seeking resolutions outside of their family and friends.

Which family problem were you facing?



Exploring the family category

Has the problem in question now been resolved?



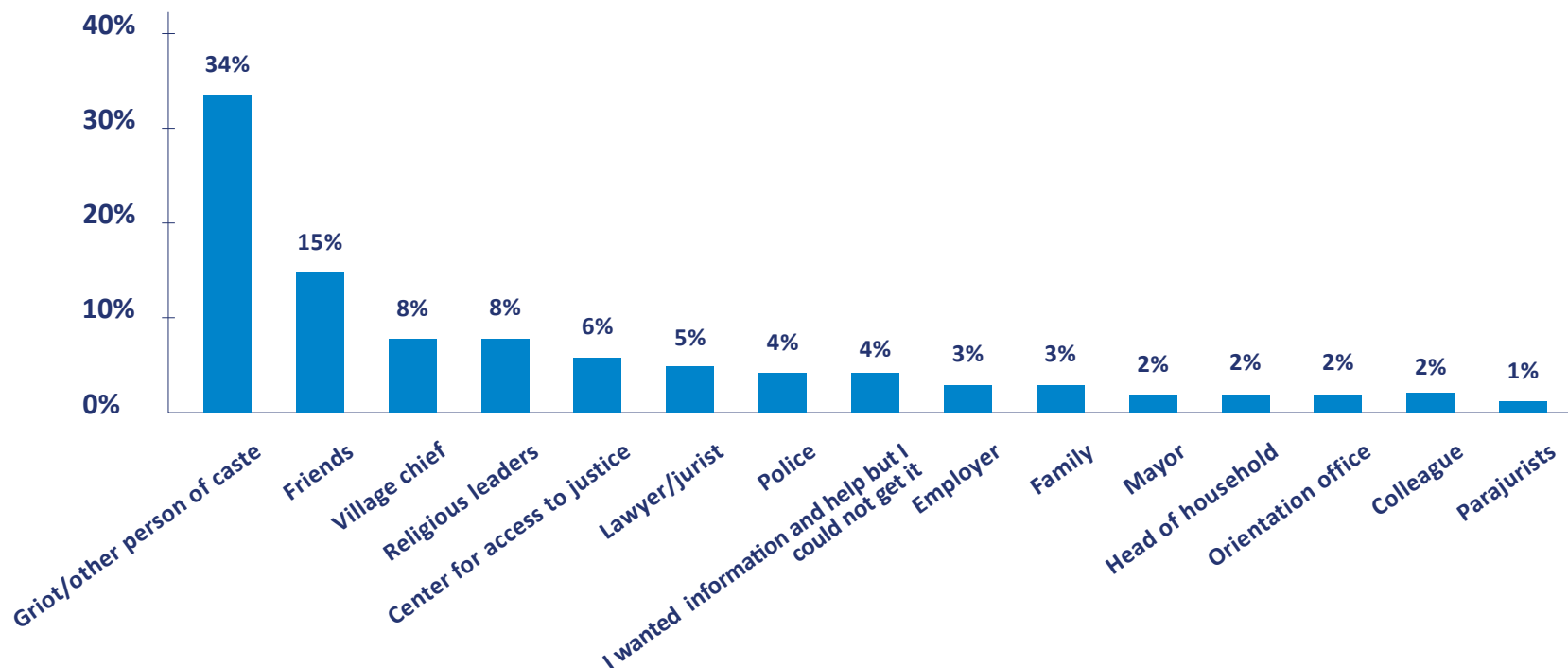
What do they talk about?

Family problems are related to divorce, children and inheritance. Women often complain about their husbands, either because they were abandoned, beaten (violence) or stopped receiving financial support.



Where do people seek information and solutions to family problems?

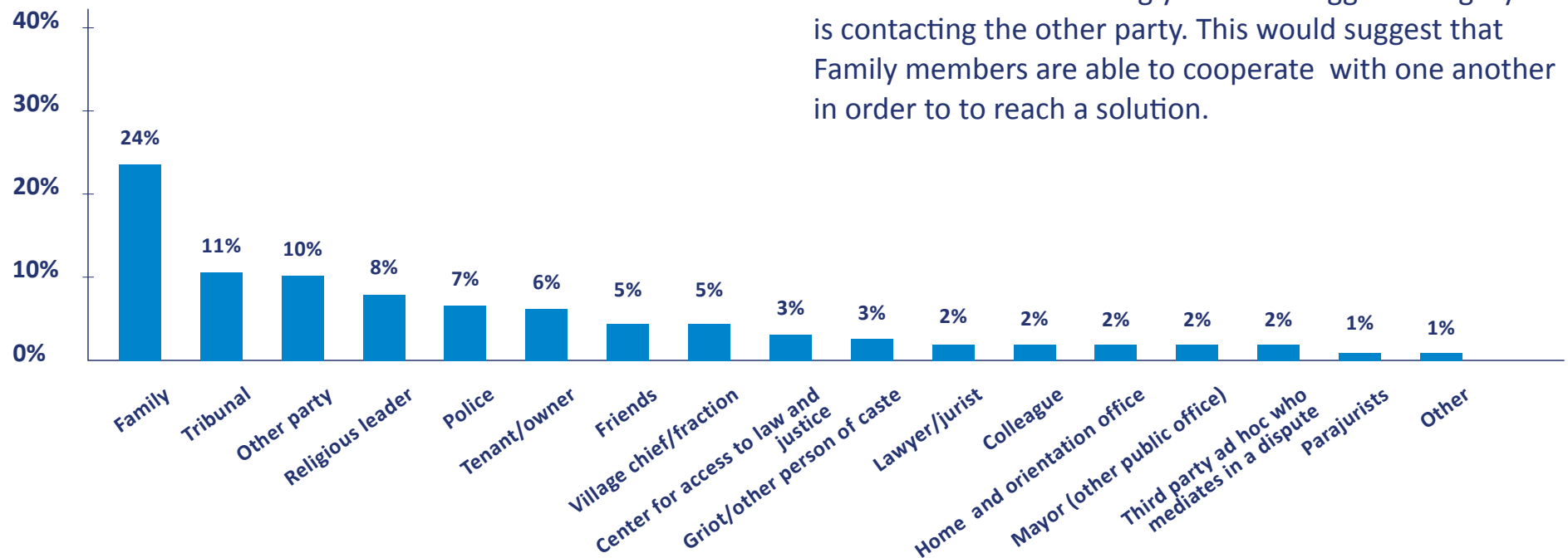
Sources of information



Informal institutions such as griots, village chiefs and religious leaders play a key role in providing people relevant information.

An evaluation of the different paths

Process to solve the problem



The family is by far the most effective place for people to resolve their problems (24%). Courts are the second most effective. Interestingly the third biggest category is contacting the other party. This would suggest that Family members are able to cooperate with one another in order to reach a solution.

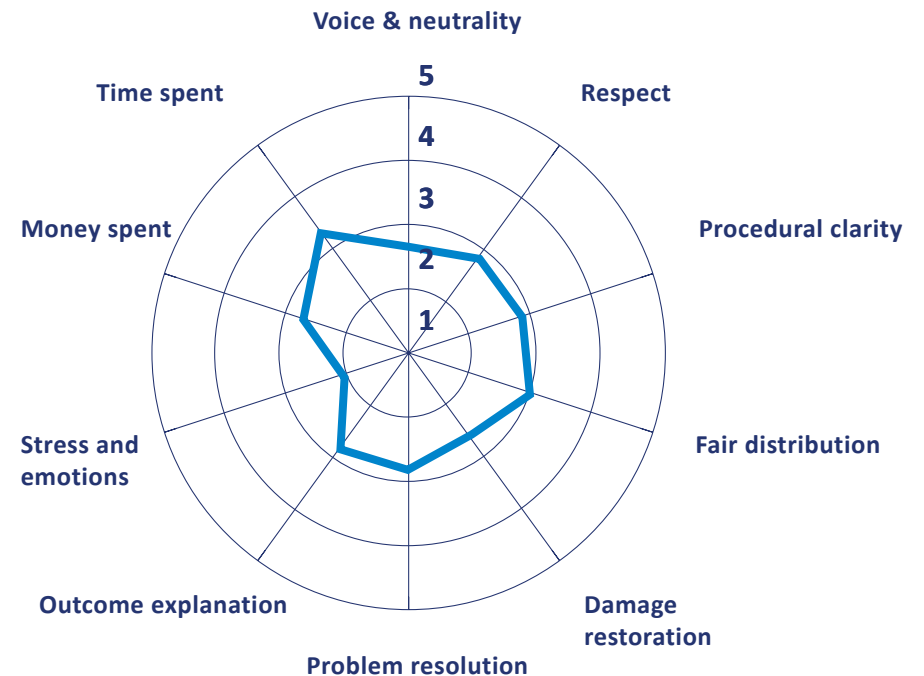
An evaluation of the different paths of access to justice concerning family problems

Dimensions of justice

Family problems are stressful life events. The procedures currently in place add to the stress and negative emotions that respondents experience. This is something we need to be worked on.

Evaluations of damage restoration are also low there is room for improvement. Furthermore, the costs of dealing with family problems are often high.

Dimensions of Justice - family

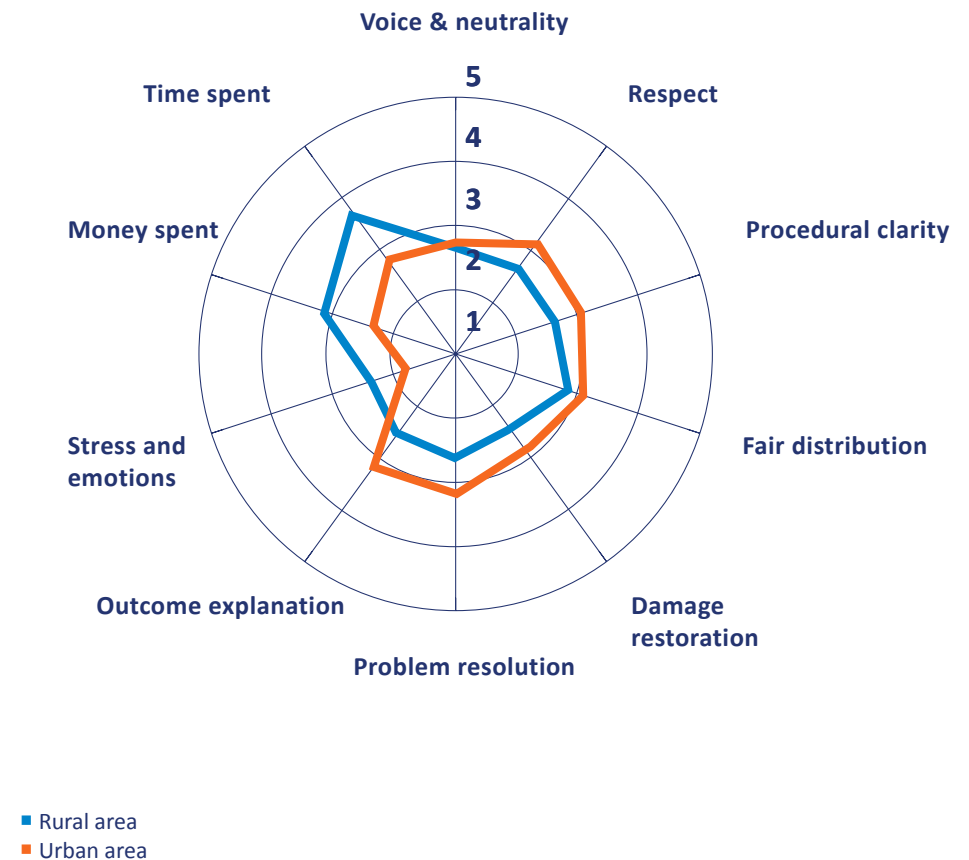


How do demographics affect evaluation scores?

Overall, rural residents feel that current procedures do not adequately resolve their problems. The processes are however fast, relatively cheap and cause little negative emotions.

These three dimensions strongly contrast with what happens in urban areas. This could be an opportunity for learning and improvement.

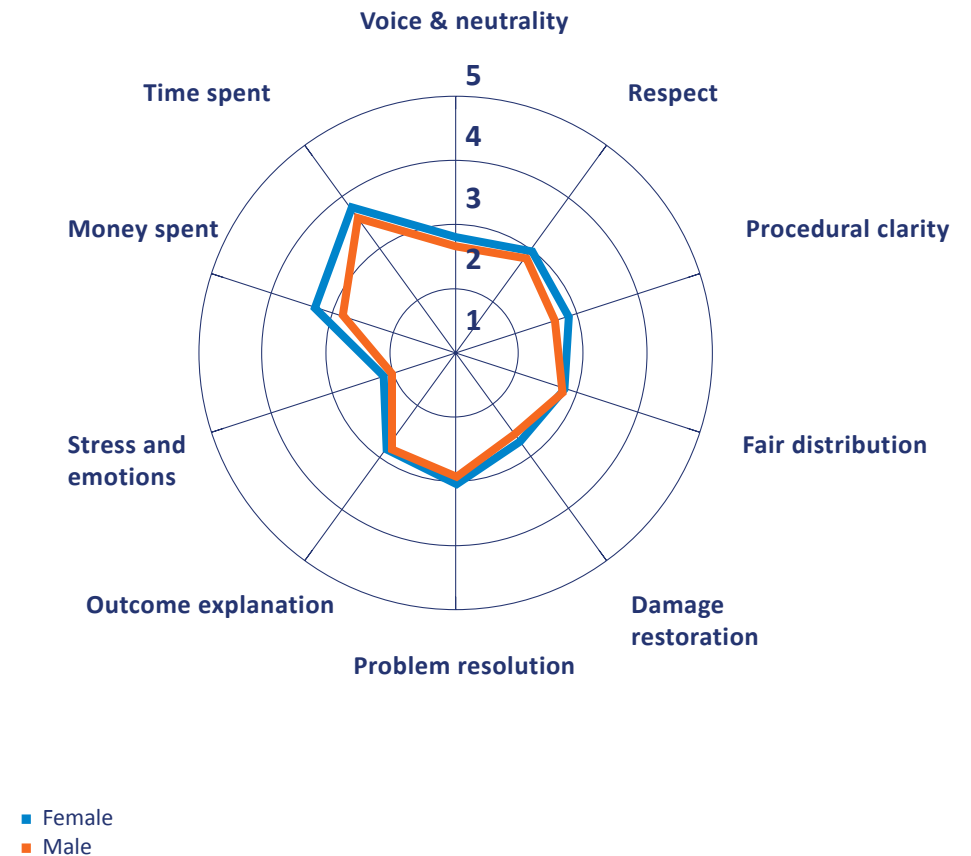
Dimensions of justice - family



How does gender affect the evaluation?

Women feel that there is a bias toward men in terms of the outcome received. Women feel that outcomes are not adequately explained and that the verdict offered does not resolve the problem at hand.

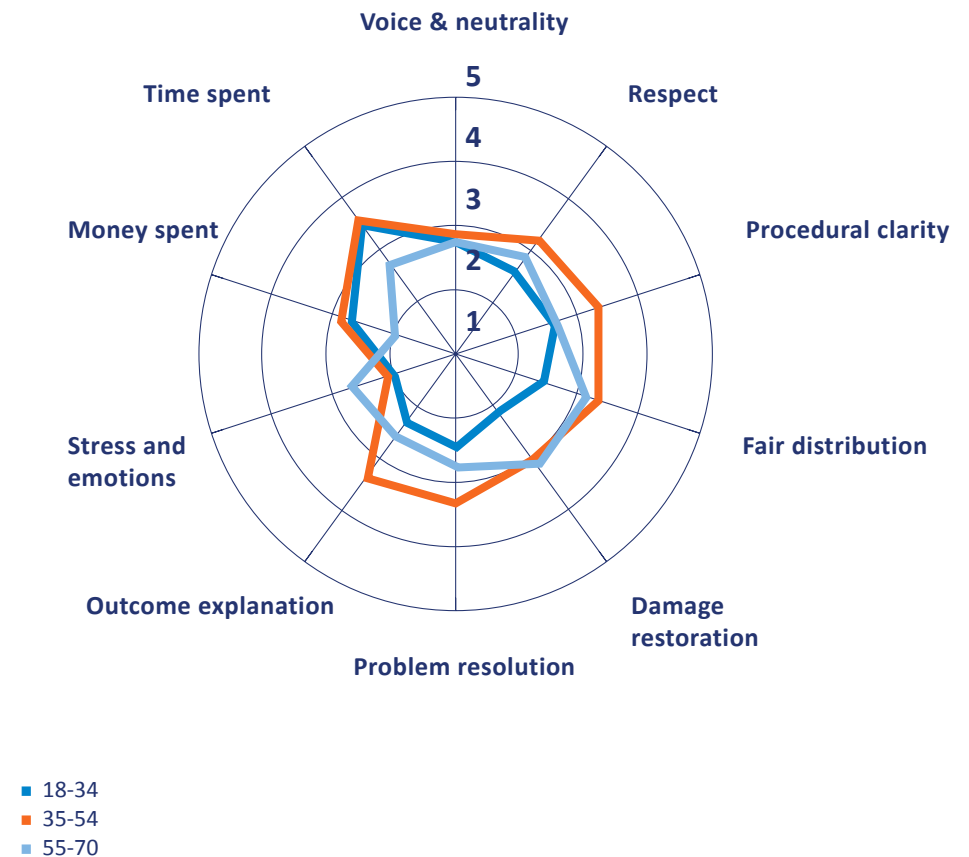
Dimensions of justice - family



How does age affect evaluations?

Younger people evaluate the justice system the most negatively. This might suggest that there is a difference in the treatment that this demographic segment receives. This may be due to the importance that seniority plays in Malian society.

Dimensions of justice - family

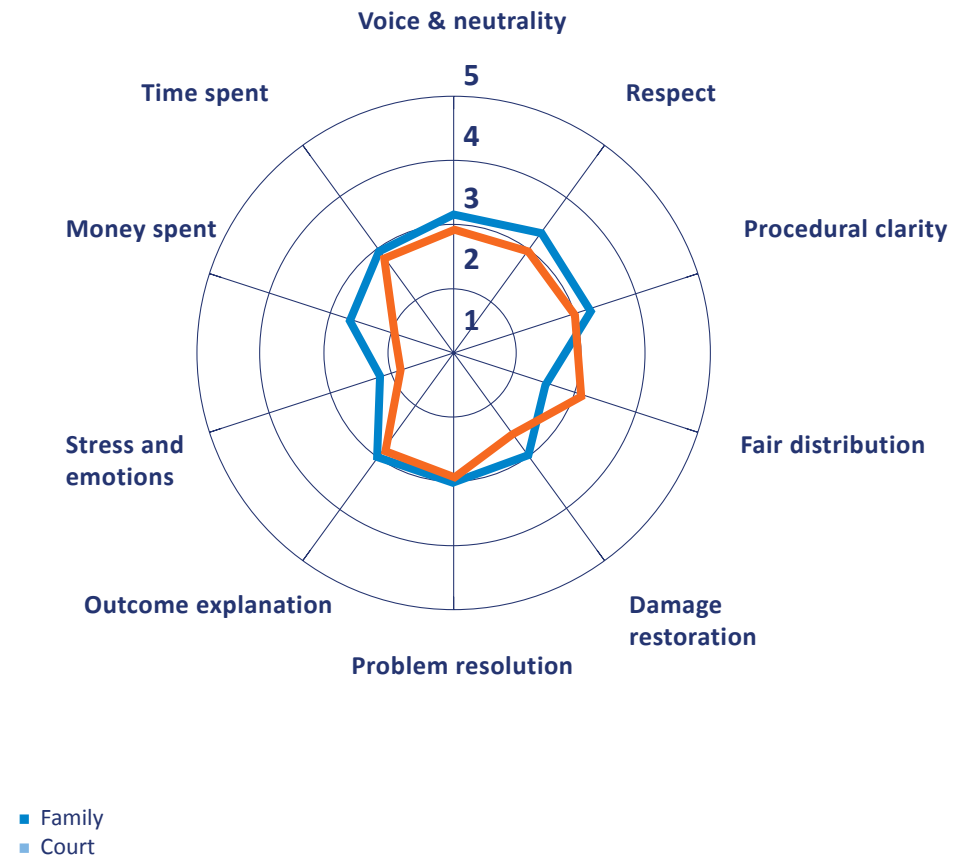


Dimensions of justice: Courts provide fairer outcomes

Overall courts are evaluated more negatively in their handling of family problems- this is most apparent for respect given to respondents, the amount of money people had to spend, procedural clarity and damage restoration .

It is interesting to notice that they do not cost more time than cases dealt within the family.
Most importantly they are able to produce fairer distributions than informal mechanisms.

Dimensions of justice - family



9. What else is in the data and what are its limitations



A word of caution about these findings

- Kidal was not included in the analysis
- The problems reported by people:
 - Shame and fear may be reasons why some problems are not reports (being detained, or having issues with a powerful individual).
 - Cultural norms may be reasons to under or over report problems. (In some cultures it is inappropriate to have conflicts with other people).
- Some Malian groups may have specific justice preferences in comparison to most other countries. **For instance, they may put more weight on 'obedience to the heads of families'.**
 - In order to allow for comparison between countries the team had to apply standardised justice questionnaires. The results are limited by the dimensions measured.

10. Using data to reduce the burden of family problems, divorce and separation as an illustration



Areas of hope and improvement points for family issues

Areas of hope

In comparison to other problems - Family disputes are resolved quickly.

Informal justice systems such as Griots, village chiefs, religious leaders and friends and family are considered valuable sources of relevant information

The courts deliver fairer outcomes.

A vast majority seeks for resolution in their community.

The Malians are proactive: they believe they can solve problems themselves.

In general citizens of Mopti and Sikasso report less justice problems – there is an opportunity for inter-regional learning.

There is a culture of cooperation and collaborative problem solving present in Mali. Many Malians resolve problems directly with the other party.

Improvement points

When a problem arises many Malians decide to take no action – often because they don't know what to do.

Most people are 'moderately' satisfied with the quality of the information they receive.

People are often not satisfied with the financial compensation received and experience Insufficient healing of relations.

Current procedures aggravate stress levels of respondents.

Female interviewees feel that decisions are often biased towards men.

Malians don't always know what to expect from resolution procedures.

Although many problems are resolved - there are still many people that give up.

Areas of hope and improvement points to family issues

The people of Mali reported a lot of different individual justice problems within the family category. A 'one size fits all' strategy or a 'grand solution' to tackle the whole category won't work due to idiosyncrasies amongst these problems.

Experience has demonstrated that solutions designed to tackle specific justice problems such as 'divorce and separation' can eventually be applied to solve related issues such as alimony and child support.

An illustrative example: Divorce and Separation

Data has shown that 'divorce and separation' was reported as the most frequently occurring individual justice problem within the family category.

The proposed strategies have been designed to tackle four of the lowest scoring justice dimensions of 'divorce and separation'.

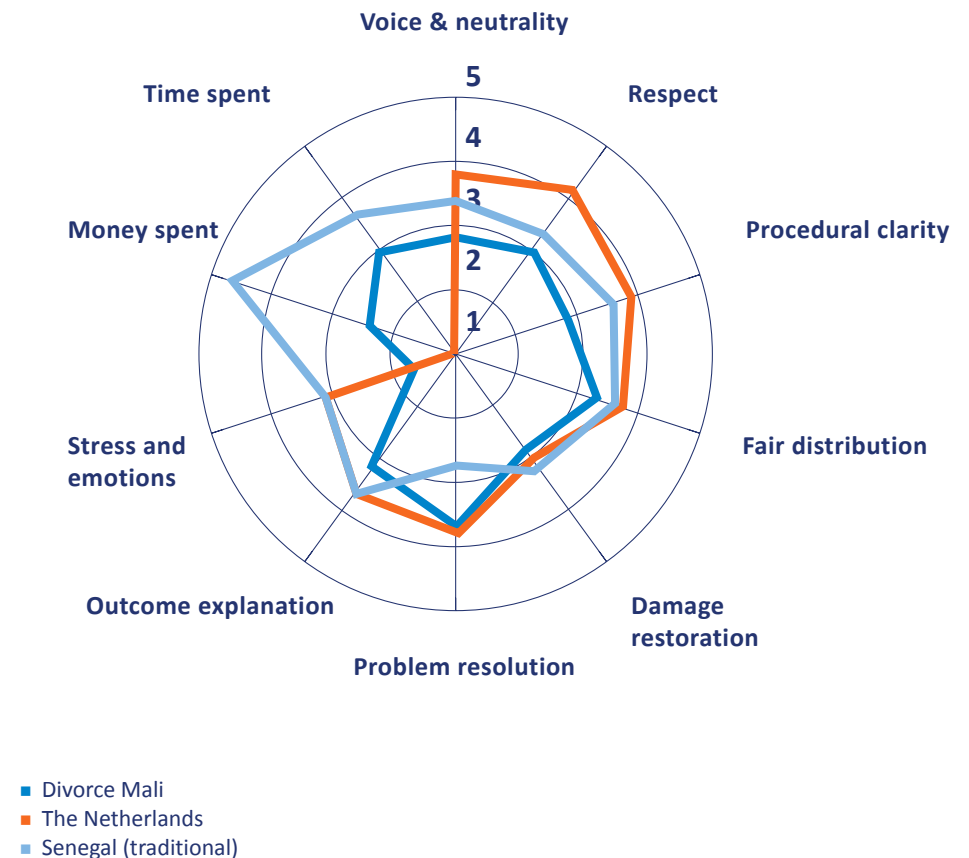
These solutions are supported by the bright spots highlighted in the data.

Divorce and Separation in Mali - Improvements are possible

Research in the Netherlands and Senegal suggests that better scores on voice and neutrality, damage restoration and money spent are achievable.

Implementing strategies that tie in with the local context can aid Mali in achieving higher evaluation scores.

Dimensions of justice



Improve Voice and Neutrality

Maliens trust informal justice institutions. Improve processes of adjudicators - such as griots, religious leaders and legal clinics - for divorce cases.

Improvement:

This strengthens the intake and hearing processes. Specialised adjudicators learn how to manage complex separation processes that are frequently emotionally charged.

If sharia and customary rules and criteria are made more transparent and easier to apply, adjudicators will be perceived as more neutral.



The informal justice systems are trusted by the people

Informal justice systems infrastructure are already well developed

There is a culture of cooperation and collaborative problem solving present in Mali

The informal justice system is accessible

Improve Voice and Neutrality

Increase process transparency , develop easy to understand protocols for divorce and separation

Improvement:

Through the creation of guidelines, complex procedures become more manageable, clearer and fairer. Common practices will emerge and Malians using the procedure will know what to expect from providers of legal services. This improved process enables people to bring forward their own views in their own words in a way that suits their emotional condition.

There is a culture of cooperation and collaborative problem solving present in Mali

Malians, both men and women, believe that they can solve problems themselves



Damage restoration

Develop standardized protocols - such as 'Sharing rules' - tailored to Malian community needs

Real world best practice: The Russian family code provides clear guidelines for child support after divorce. Other countries have more detailed formulas for calculating child support.

Example: 25% of monthly net income to be paid to other party if divorce procedure involves one child, 33% of monthly net income to be paid to other party if divorce procedure involves two children, 50% of monthly net income to be paid to other party if divorce procedure involves three or more children.

Improvement: There is less room for misinterpretation. Financial obligations are clearer to all parties and can be explained to family and friends. By knowing what to expect as an outcome, emotional strain is reduced.



Malians, both men and women, believe that they can solve problems themselves

There is a culture of cooperation and collaborative problem solving present in Mali

Vast majority seek resolution in community

Money spent

The people of Mali feel courts provide fairer outcomes, bring these courts to the people

Real world best practice: HiIL Justice Innovation Award Winner 2011 - 'Judicial Facilitators Nicaraguain'

Judicial Facilitators brings justice to people who would otherwise be excluded from the system due to practical barriers. The judicial facilitators are a network of voluntary leaders for specific communities or districts. They are elected by the community and then appointed by the Judicial Power. This is a mechanism of conflict resolution with citizen participation.

Improvement:

Facilitators that are close to the people in a particular region/local community can resolve cases at lower costs. They know how the courts will decide and can refer cases to the courts easily. This brings the authority of the courts closer to the people. It also saves travel time and costs.



Maliens believe that the courts provide fairer outcomes

Therefore, one should bring these courts closer to the populations

Stress and emotions

Mobilise the power of Malian communities, let the people help one another

Real life best practice:

‘Community power in action’

The Centre for Egyptian Women’s Legal Assistance (CEWLA) - seeks to provide women with the skills and capacities that enable them to overcome the problems that they face. The group provides legal and psychological support.

Improvement:

People need nurturing, encouragement, intimacy and consolation during difficult times. Sometimes even friends and family cannot fill that void. Self help groups offer an outlet where these emotions can be released and participants can learn from each others experiences.

Vast majority seek resolution in community



Information is sought within local communities

Moving from data to action – the process followed thus far and how it could continue

- The data were collected between March and April 2014 by a team of interviewers led by **Deme So and Wildaf**, our partners in Mali. They also helped us adapt the questionnaire to the context of Mali.
- The questions regarding transitional justice and reconciliation were developed together with the Malian Ministry of Reconciliation.
- This report is a general analysis of the data. Much more in-depth analysis is possible: for example on a specific category of problems, on special groups (for example women), and regarding certain regions. This level of detailed analysis can be necessary when working on specific strategies and programmes, based on the challenges that the overview study highlights.
- After a first analysis of the data, a Triangulation Workshop was held in Bamako on 2 June 2014, at which the initial results were discussed with a group of around twenty justice professionals from Mali (both

from government and civil society organizations) and a few donors. The comments received during this workshop helped us a lot to better understand the data and what they were telling us.



Moving from data to action – the process followed thus far and how it could continue

- On 21 and 22 August, the final draft report was presented to a group of around 60 justice professionals - presidents of jurisdictions, ministry directorates, prosecutors, representatives of the médiateur de la république, civil society leaders, and the bar association - under the leadership of the Malian Ministry of Justice.
- The meeting was opened by Minister Mohamed Aly Bathily of Justice and Human Rights, in the presence of the Minister for Reconciliation, Mr Zahabi Ould Sidi Mohamed and the President of the Supreme Court, Mr Nouhoum Tapily. Former minister Mamadou Diakité moderated the session.
- The meeting worked on the data and considered its implications for the different areas of activity represented around the table. Two working groups were formed: one on justice related issues, and the other on reconciliation. Both working groups worked on concrete recommendations for action plans. The latter are not included in this report but will be in a separate document, prepared by the Ministry of Justice.
- In the following pages we set out some of our conclusions, partly also based on the exchanges during the August meeting.



Some recommendations for strategies and programmes, based on conclusions one can draw from this overview analysis of the data

- Regional differences are clear and should be taken into account, both in the areas of transitional justice and reconciliation as in the delivery of justice.
- The justice needs of women deserve special attention. They have, for example, more problems related to family and criminality. Data show clearly that domestic violence is a justice problem that is quite common.
- An area where there is much need and where much impact can be achieved concerns legal information: getting the right legal information to the right persons at the right time. The local level seems to be a critical component here (mayors, police, village elders, traditional communicators (communicateurs traditionnels)).
- The people of Mali have elaborate informal justice mechanisms which are used a lot and are generally trusted, even though they are not always rated perfectly. Strategies aiming to enhance the quality of these trusted mechanisms would be beneficial

Some recommendations for strategies and programmes, based on conclusions one can draw from this overview analysis of the data

- From research we know that the following strategies to enhance access to justice have had a lot of success and are supported by a growing number of best practices:
 - Improving a good delivery of legal information to empower and enhance local problem solving capacity.
 - Facilitators and paralegals who are working to obtain fair solutions. There are good examples of where these have received a better appreciation than the formal justice system (legal facilitators in Nicaragua, see above).
 - Developing and sharing best practices and evidence-based protocols in specific areas of dispute resolutions (for example: divorce, land property problems, etc).
 - Providing the citizens with a better choice of third-party dispute resolution processes.
- IT platforms tailored to the local environment and aiming to support negotiation and dispute resolution.

Some recommendations for strategies and programmes, based on conclusions one can draw from this overview analysis of the data

- Our data show that targeted interventions aiming specifically the following justice dimensions – ‘**voice and neutrality**’, ‘**distributive justice**’, as well as ‘**stress and negative emotions**’ – are particularly necessary. This applies not only to paths to justice through formal mechanisms such as courts, but also to informal mechanisms.
- The study has generated a lot of interest from the justice leadership in Mali. In our interactions with these justice leaders, we often heard of a need to enhance the capacity to collect and work with justice data and to translate these data into effective innovation strategies.

This report contains an overview analysis of the data that we have been able to collect, with a special focus on three of the more serious problems (land, employment, family). Much in-depth analysis of the data is possible, by focusing on specific problems, groups, regions, etc...

11. Valuable lessons from the people of Mali



Valuable lessons from the people of Mali

The people of Mali have shared their stories and have asked us to listen. Their stories opened a window into their daily lives and revealed the diverse injustices that they face. These accounts can guide decisions for more precise programming as the people of Mali know what works and what doesn't.

Malian citizens are self-helpers. They are confident in their ability to resolve justice problems. They now need better access to legal information and more transparent procedures. There is a culture of cooperation and collaborative problem solving present.

Many Malians resolve their problems within their families and with the other party. More can and should be done with this.

For most people in Mali - justice occurs outside of the courts and away from lawyers and judges.

The power of local communities is strong. This should be embraced. A great deal can be learnt from the informal justice mechanisms that are to be found here.

The message is clear:

A 'one-size-fits-all' or 'grand solution' for Malian justice will not work. Tackle problems one at a time, moving from category to category. Build on the strengths of existing dispute resolution mechanisms and help them become more responsive to the needs of the people.

“Normally, we are the ones who judge. This time, it is the citizens who are judging us”

- said Mr. Mahamane Maïga, Director of the CPS Justice during the closing ceremony of the strategic workshop.

This study would have been not possible without the leadership of Mr. Mahamane Maïga, Director of CPS Justice, without the financial contributions of the Netherlands and European Union, and without the great partnership between Deme So, Wildaf and HiiL.