Working Paper

Judicial Reform and Civil Society in Guinea

Insights from the BEFORE Project (2011-2014)

Sibel Gürler & Joschka Philipps

swisspeace
Schweizerische Friedensstiftung
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Fondazione svizzera per la pace
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Abstract

Reforming the justice sector entails an engagement with profoundly political issues: how justice is enacted, which moral frameworks count as jurisdiction, and which institutions enforce them. In international policy, these questions appear surprisingly under-debated. Technical challenges of implementation dominate the agenda, and supporters of judicial reform, including donors, policymakers, national governments, NGOs and civil society organizations, rarely problematize the fact that they aim at institutionalizing fairly specific concepts of justice (of Western origins) that may lack local support and ownership. In this Working Paper, we enquire into the practical implications of this discrepancy. We focus on the case of Guinea and the BEFORE project, which was implemented in support of Guinea's judicial reform process following the 2010 elections. We show that the reform's state-centered rationale sidelines informal justice institutions and mechanisms, which most Guineans rely on to deal with conflicts. We also highlight that the inclusion of civil society in the reform process did not have the intended effect of giving voice to the broader population, for civil society was too narrowly defined as those organizations subscribing to the policy frameworks of international donors. The resulting lack of local support and the concomitant stagnation of the reform process provide critical evidence for the need to rethink judicial reforms in contexts of legal pluralism.

Keywords: Access to justice, Aid policies, Civil society, Democracy, Guinea, Governance, Informal and traditional justice, Judicial Reform, Justice Sector Reform, Legal Pluralism, Rule of Law, Local ownership, SSR, Theory of Change

Imprint

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Sonnenbergstrasse 17
P.O. Box, CH-3001 Bern
Bernoullistrasse 14/16
4056 Basel
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www.swisspeace.ch
info@swisspeace.ch

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Table of contents

List of acronyms

AMG	Association des Magistrats de Guinée (Association of Magistrates in Guinea)
CNDD	Conseil National de la Démocratie et du Développement (National Council for Democracy and Development)
CNOSCG	Conseil National des Organisations de la Société Civile Guinéenne (National Council of Guinean Civil Society Organizations)
CONASOC	Coalition Nationale des Organisations de la Société Civile Guinéenne (National Coalition of Guinean Civil Society Organizations)
CROSC	Conseil Régional des Organisations de la Société Civile (Regional Council of Civil Society Organizations)
CSM	Conseil Supérieure de la Magistrature (Supreme Council of the Judiciary)
CSO	Civil Society Organization
DFID	Department for International Development (of the United Kingdom)
FCJ	Forum Civilo-Judiciaire (Civil-Judicial Forum)
JPO	Judicial Police Officer
MATD	Ministère de l'administration du territoire et de la décentralisation (Ministry of Internal Affairs)
NGO	Non-Governmental Organization
SERJ	Sécretariat Executif à la Réforme de la Justice (Executive Secretariat for the Justice Reform)
SSR	Security (and Justice) Sector Reform
UNDEF	United Nations Democracy Fund
UNDP	United Nations Development Programme
USIP	United States Institute of Peace

1 Introduction

Judicial reforms have become an essential component of international policies aimed at promoting democracy, the rule of law, and human rights (DECAF, 2011; UNDP, 2004, 2010; World Bank, 2002). Integrating civil society as active participants in such judicial reforms has become an equally important policy concern, guided by the conviction that civil society can inspire and accompany bottom-up processes that strengthen the link between a country's judicial sector and its citizenry (Dakolias, 2000; see also Arthur and Yakinthou, 2018).

While many host governments of aid interventions officially subscribe to the conduct of exhaustive reforms, most such efforts face great challenges during implementation and yield mixed results at best. This is also true for the Republic of Guinea, where in 2010 the new president and former opposition leader Alpha Condé announced his commitment to the promotion of the rule of law and human rights through far-reaching reforms of the security and the justice sector. Despite the creation of necessary structures and bodies for reform implementation with the help of international partners, the reform process was never properly initiated until the period following the much-delayed legislative elections in 2013. Even since, the judicial reform, which remained heavily reliant on donor and international aid organizations, has not enjoyed strong momentum either from government or the larger public.

The purpose of this Working Paper is to examine in detail why local ownership and reform support has remained limited, and whether current policy approaches to judicial reform are suited to the contexts in which they are implemented. We will do so by discussing a project implemented by BEFORE, a partnership between swisspeace and the Alliance for Peacebuilding, that bore the title "Judicial Reform: Empowering magistrate – civil society collaboration for Guinea's new democratic future." From December 2011 to March 2014, it sought to promote dialogue and collaboration between judicial authorities and civil society. The BEFORE project's ultimate goal was to encourage greater involvement of Guinean civil society in the broader justice reform process, to improve citizens' access to justice, and to promote an accountable and independent judiciary as well as increased public trust in state institutions.

The findings presented in this paper are based on a post-project review commissioned by USIP, which placed the project within a broader examination of the current judicial reform as promoted by bilateral donors and multilateral aid organizations (Gürler, 2016). The analysis of this Working Paper is informed by a more extensive assessment of the project rationale, the structures and assumptions underlying international cooperation in justice reforms, and how the desired change relates to, and contrasts with, the Guinean social and legal context. Questions answered include whether current donor approaches in general, and this project in particular, are adjusted to Guinea's reality, with a key focus on legal pluralism, and whether civil society organizations can ensure participative bottom-up processes for the judicial reform to be fair and inclusive. More broadly, the Working Paper aims at contributing towards a better understanding of wider issues surrounding the promotion of justice sector reforms, including questions of governance and ownership, and the role of informal justice systems.

The following analysis proceeds in three steps. Chapter 2 critically discusses the key concepts that informed the judicial reform process in Guinea, including governance, the rule of law, and civil society, and provides a methodological note on how the data for the post-project review and the present Working Paper were gathered and analyzed. Chapter 3 focuses on the Guinean context and highlights the challenges of the formal justice system and the diversity of parallel informal justice mechanisms that give rise to a pluralistic intertwining of norms and laws. Chapter 4 analyzes the BEFORE project. After assessing the broader institutional reform context, we outline the project design and rationale, discuss the immediate project outcomes, and investigate problematic underlying assumptions that guided the BEFORE project. Chapter 5 concludes the Working Paper by carving out the most important implications of the findings.

2 Main concepts and methodology

2.1 State-centric institution-building

Judicial reforms, in Guinea as elsewhere, are usually embedded in security sector reforms (SSR). Judicial SSR embodies the basic Western concepts of how a society should function, in terms of governance, order, law and justice. Since the 1990s, SSR has become a significant component of the wider conflict prevention agenda in war-affected and unstable regions and involves a bundle of activities aimed at ensuring the transition of post-conflict and failed states to stable democracies (see also Edmunds, 2002; Sedra, 2010: 16). SSR is seen by many donors as crucial to political control and is often embedded within a wider effort to strengthen the broader government apparatus (DFID 2002). The main objective is the creation of efficient and democratically controlled justice and security institutions that are capable of enforcing the rules and norms established under a central authority down to the local level. Ideally, SSR is both a democratic endeavor and a democratizing endeavor. The OECD states in their guidelines on 'Security System Reform and Governance':

> 'Security system reform' is another term used to describe the transformation of the 'security system' - which includes all the actors, their roles, responsibilities and actions – working together to manage and operate the system in a manner that is more consistent with democratic norms and sound principles of good governance, and thus contributes to a well-functioning security framework. (OECD-DAC 2005: 20)
>
> SSR should be people-centred, locally owned and based on democratic norms and human rights principles and the rule of law, seeking to provide freedom from fear. (OECD-DAC 2005: 12)

While there seems to be an acknowledgment that sustainable reform is largely determined by the commitment and capacities of local populations, scholars suggest that reformers often fail to understand and engage with non-state forms of social organization, which are often the predominant form in the targeted intervention areas (Clapham, 2003). Local notions of governance and social order are often poorly appreciated or perceived as problematic (Narten, 2009; Cleaver, 2001). Detailed knowledge of the context, in which bilateral and aid actors deploy their staff and implement their programs, is often lacking and local values and norms are largely ignored. Shearing (2006), for instance, observes that informal governance structures are not sufficiently acknowledged and researched among scholars and policymakers. According to Lipson (2002), the global standards and institutions adopted by fragile states are often unsuited to local conditions and the available resources.

2.2 Rule of law and governance

The concepts of the 'rule of law' and 'good governance' have become inseparable from SSR approaches. There is a widely shared political consensus among Western state and non-state aid organizations that good governance is essential to sustainable development, peace and security and that, in turn, well-functioning legal institutions and governments bound by the rule of law are vital to good governance (Sedra, 2010: 16, UNDP 2008, World Bank 2010).

Rule of law and governance are, however, broad concepts and carry many meanings. Concerning the rule of law, Neumann (2002) suggests that the various definitions could be mainly grouped into two camps. On the one hand, there are non-normative definitions that strip the term from all ethical considerations. Here, the state simply ensures compliance with a given set of laws to maintain public order and safety. On the other hand, normative definitions work through *moralized concepts* and share the view that "certain moral principles must be observed" (Neumann, 2002: 1). In international policy circles, normative conceptions of the rule of law prevail. The United Nations, for instance, define the rule of law as follows:

> The rule of law refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are *consistent with international human rights norms and standards.* It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency (UN 2004: 4; emphasis added)

As for governance, Risse (2011: 9) defines it as "the various institutionalized modes of social coordination to produce and implement collectively binding rules, or to provide collective goods." Governance refers to both structures and processes, which can be provided by state but also by non-state actors and institutions that are involved in rule and decision-making for society. The concept of governance gained high popularity in the 1990s when international development agencies focused on redefining frameworks of government in developing countries at the end of the Cold War era (see also Johnson, 1997, Greig et al., 2007). The utilization of the terms 'good' and 'bad' governance gradually emerged in the language of development agencies to describe how well governments managed the processes of exercising authority. To date, there is no agreed definition of good governance. While some organizations such as the World Bank and the IMF concentrate predominantly on the social and economic aspects of governance, others have placed their attention on human rights and democracy issues. The notion that good governance has to ensure equity, justice and the empowerment of traditionally marginalized groups of society has been taken up by Western governments and international development bodies including the UNDP (2010). Some actors, such as the UK Department for International Development, have, nonetheless, called for increased realism when implementing reform plans and suggested that it might be necessary to settle for 'good enough governance', at least in the short-term (DFID 2005).

SSR, governance and the rule of law are intertwined concepts that are inevitably linked to questions of power and social control. Social power relations have received much attention in social theory. From Aristotle to Marx, scholars have stressed that any kind of goal linked to communal life, the economy or the state can only be achieved through cooperation, which implicitly

involves power relations and the establishment of rules and guidelines (Mann, 1986). Rules are not only the basic tool for cohabitation and collaboration but also for political life (Sanchez-Cuenca, 2003). Who makes these rules and how they are enforced thus constitutes a central question for analyses of political power. Parsons (1957) claimed that it is mainly internalized common norms and values that shape and guide people's actions and the overall normative order at the basis of a functioning social system. To understand power, social structures and decision-making processes, especially in entirely different socio-cultural contexts, it seems necessary to build an understanding of the institutions and what makes them stable and lasting (Barnes, 1988). Migdal's (1988) work on 'Strong Societies, Weak States: State-society Relations and State Capabilities in the Third World' and his model of 'weblike' societies provides helpful insights regarding the competition for power and social control between state and non-state authorities and institutions in politically contested contexts.

2.3 Civil society and the question of local ownership

Current SSR and judicial reform frameworks advocate people-centered approaches that conform with democratic norms and values (Caparini, 2010). Many view inclusion of civil society at the various stages of the reform process as a means of ensuring local ownership, democratic governance, sensitivity to local cultures, and thus of legitimizing and gathering broad-based support for the reform. Civil society as a concept, however, is notoriously ambiguous. There is not much agreement on what groups to include in a definition. Caparini (2010: 244) suggests the following definition:

> (...) Civil society refers to the sphere of uncoerced collective actions of citizens that develop around shared interests, ideas and values. Civil society thus encompasses a broad variety of associational forms that mediate the space between the family (private sphere), the market (economic sphere) and the state (political sphere). These forms may include groups such as professional associations, charities, issue-based groups (for example, those promoting human rights or protesting national involvement in a conflict), non-governmental organizations (NGOs) and social movements.

In practice, the concept of civil society generally applies to NGOs and CSOs that implement donor-driven approaches. Indigenous institutions and structures that operate outside the normative systems of international policy institutions and in consistence with their own belief systems are often excluded. Accordingly, there has been a "vociferous" debate in academic circles on the role and meaning of civil society in African politics since the 1980s (e.g., Bayart, 1986; Harbeson, Rothchild and Chazan, 1994; Mamdani, 1995; Comaroff and Comaroff, 1999; Orvis, 2001: 17).

From this debate, a number of insights can be gathered. First, civil society has been identified as "a theoretical concept rather than an empirical one" (Bratton, 1994: 2); it is a concept that is "not necessarily embodied in a

single, identifiable structure" (Bayart, 1986: 112). In other words, while definitions of civil society abound, the phenomenon is hard to pinpoint, and it has remained contentious whether, or in what form, civil society exists in African settings (Ekeh, 1975; Makumbe, 1998; Kasfir, 2017). Critics of the concept have argued that even if one focuses on the little common ground that exists in definitions of civil society—its supposed independence from the state and its supposed independence from the household (Orvis, 2001: 19)—the concept makes little sense in environments where *inter*dependencies and entanglements between family life, public space, and statehood are most evident (Schatzberg, 2001; Simone, 2003, 2008; Bierschenk and Olivier de Sardan, 2014).

Secondly, as Mamdani (1995b: 4, 31) has highlighted, the "discourse on civil society is not only descriptive" but "also prescriptive": in academic debates and policy circles, civil society ultimately defines those "who should rightfully be part of the democratic game and who should be left out of it."

> The lead term in Africanist theory is 'civil society'. But [...] what [...] falls outside the parameters of 'civil society'? What is that inexhaustible reserve of 'tradition' that state-centrists see as the hotbed of 'particularism'? Is it not the original 'community' from which 'society' is supposed to have emerged? That natural habitat 'modern man' is to have left behind as he (and she) entered 'civil society'? Is 'community' not the silent residual term in the polarity of which 'civil society' is the lead term? (Mamdani, 1995a: 613)

To Mamdani, the problem of civil society discourse is not only the exclusion of "community" as such, but also how the concept makes sense of African state-society relations through an analogy with Western history (Mamdani, 1995a: 608). Implying the European political "evolution" as a universal blueprint, progressing from *Gemeinschaft* to *Gesellschaft*, i.e. from community to society (Tönnies, 1935), analysts and international policy makers impose European conceptual frames on African contexts, and thereby miss critical aspects about the socio-political realities that they seek to capture and transform (see also Mbembe, 1992; Ferguson, 1994; Easterly, 2006, 2014; Pommerolle, 2010).

At the same time, and third, there is an increasing awareness that civil society has profoundly shaped political realities in Africa even as an initially exogenous concept (Sorj, 2005; Duffield and Hewitt, 2013; Gabay and Death, 2014). A whole industry of NGO and CSO jobs has mushroomed across the continent, most of them better-paid than those in the state administration, but also forming a loose network between state, non-state, and international actors (Pommerolle, 2010). Local NGOs, embassies, development institutions, international country offices and ministries exchange human resources, knowledge, and perspectives through consultancies and advisory positions that ultimately intertwine international policy discourse and state-related interests (Bierschenk, 2010). Civil society thereby has also become a professional category that has privileges to lose, that can hope for the gradual improvement of their social, political, and economic position (Branch and Mampilly, 2015), and a political category that favors reform over radical

change. In turn, their prominence in African politics, mainly financed by international donors, has sidelined what Partha Chatterjee (2006) has called political society: the anonymous masses of the poor underclass for whom "everything must change for anything to change" (Branch and Mampilly, 2015:33). The key dilemma, Branch and Mampilly (2015: 65) argue is "that the political inclusion of [civil society] may come about at the cost of excluding the majority"—political society. This is contrary to the notion of civil society in international policy discourse, where it stands for participative, bottom-up processes in political reforms that give a voice and ownership to the broader population.

Finally, and as mentioned in the beginning of this section, the question of who 'owns' a judicial reform process also poses itself at a more global level. Since judicial SSR embodies fundamental Western or northern concepts of how a society should function, it also relies on Western normative frames, consultants and expertise, institutions, texts, and ideals. This introduces exclusive mechanisms as to who can be in a position to 'own' the reform process. Those who have undergone formal Western education, who know and believe in Western norms of jurisdiction are in a much better position to be drivers of the process than those who are illiterate, unfamiliar with Western justice systems or simply unconvinced by the capacity and/or the legitimacy of Western norms to function in non-Western settings. Since the Western normative bias of judicial reforms is hardly questioned in reform interventions, the latter involve a fundamental paradox: all encouragement of democratic, participative, bottom-up approaches notwithstanding, judicial reforms remain top-down in the sense that they take place in a global context of north-south power inequalities, where certain forms of knowledge are prioritized over others (Connell, 2007; Comaroff and Comaroff, 2012). Financed by international donors, and signed by governments who depend on development aid, they ultimately aim at socializing populations in the global south towards what reformers in the global north consider improved behavior (Easterly, 2006, 2014; Foucault, 1969; Ferguson, 1994; Tangri and Mwenda, 2006).

This comes with very practical consequences for judicial reforms. As Epstein (2012: 144) has argued, the paternalistic relationship in international policy processes aims at socialization: international socializers position themselves as parents who know what is best, and position the national or 'local' socializee as a child, a "blank page upon which all the 'good' norms can be written." This, Epstein argues, can ultimately backfire. Since the socializers ignore the historical past and the cultural identity of the socializee, the socializee may be reluctant to accept the norms that the socializers offer or impose. While the reform process and existing power inequalities may leave no room for overt resistance, the socializee has a large repertoire of means to undermine or delay it (see also Scott, 1985).

This may be particularly significant in the case of Guinea. The first sub-Saharan African colony to gain independence from France in 1958, its national identity is marked profoundly by the anti-colonial struggle and the Pan-Africanist ideology of the first postcolonial regime under Sékou Touré (1958–1984) (see Goerg, Pauthier and Diallo, 2010; Pauthier, 2016; McGovern, 2017). Though less noticeable in the official political discourse by political parties

today, anti-French sentiment and critiques of (neo)colonialism still permeate Guinean society (see Camara, 2016; Tolno, 2015). While international policy discourse neglects colonial history, it may thus well have informed a tacit reluctance among Guinean stakeholders at different levels to undergo an externally driven transformation of the justice system. We will further explore the Guinean context in the following section after outlining the methodological foundations of this Working Paper.

2.4 Methodology

The present Working Paper is based on qualitative fieldwork by the co-authors. Sibel Gürler's research in Conakry and Kankan examined the BEFORE project in the context of the overall justice reform in Guinea (Gürler, 2016). The post-project review ran from February to June 2016. After an initial review of the project documents, original data was gathered in February and March 2016 in Guinea. Over 56 individuals participated in interviews and focus group discussions were held in both Conakry and the Kankan area. To allow for data triangulation and to assess the project's relevance with regard to the Guinean context, a wide range of actors was approached. It included project staff and beneficiaries, judicial and law enforcement officials, the donor and civil society representatives, traditional and religious leaders, as well as members from various communities or neighborhoods in both Conakry and Kankan. Interviews and focus group discussions were semi-structured with open-ended questions to encourage dialogue and exploration. Interviews and focus groups were held in French and local languages. Local assistants not only ensured translation but more importantly also assisted with interpreting the discussions and data obtained. National policy papers, reports and academic contributions were reviewed to complement original data.

The 'theories of change' approach served as an analytical framework for the BEFORE post-project review. Grounded in a robust context analysis, it proved to be a useful tool for reconstructing and identifying the project logic or gaps thereof, by connecting project activities, outputs, and outcomes with desired mid and longer-term impacts. This methodology is particularly helpful in illuminating how the project is supposed to work, what the anticipated chains of effects (impact pathways) are, and what underlying assumptions exist (Valters, 2014; Dhillon and Vaca, 2018). Combined with an in-depth understanding of the respective context, it allows for a solid analysis of whether a chosen strategy is likely to contribute to change that is both relevant and locally supported.

Joschka Philipps has carried out qualitative and quantitative research in Guinea since 2009, with various long-term ethnographic research stays in Conakry and N'Zérékoré. His research on Guinea has focused on urban youth (Philipps, 2013a, 2013b, 2018; COGINTA, 2014), education (Philipps, 2011), protests (Philipps, 2016, 2017), and the nexus between social dynamics and political change more generally. His contribution to the present working paper also draws on his consultancies for the GIZ, COGINTA, and the World Bank in Guinea.

3 Statehood and justice in Guinea

Guinea is located in a region marked by political conflict and instability. Most of its neighbors (Guinea-Bissau, Senegal, Mali, Côte d'Ivoire, Liberia, and Sierra Leone) have at some point experienced violent conflict, including the notorious civil wars in Liberia and Sierra Leone, which in 1999 brought around 450.000 refugees to Guinea. In this unstable neighborhood, Guinea has generally been seen as a fragile, yet highly resilient country, which up to now has not experienced any major national or subnational conflict. Many observers attribute this resilience to Guinea's particular political history (see Arieff, 2009; Camara, 2014; McGovern, 2017). As the following paragraphs demonstrate, that history has also introduced a particular heterogeneity of formal and informal justice mechanisms that work side by side and are routinely intertwined in everyday life. As a consequence, the state is by no means the only provider of justice-related services, and its legitimacy has been thoroughly contested in recent years. The difficulties of the state-centered judicial sector reform are to be understood as a consequence thereof.

3.1 A history of contested statehood

The first postcolonial regime under Sékou Touré (1958–1984) merged ruling party, state, government, and the administration into an overall system, a conflation of institutions whose legacy is still palpable today. While Touré's ideology finds comparatively little recognition in today's political discourse, and while Guineans certainly have lost their fear of the state that the Touré regime induced through its politics of constant surveillance, nebulous arrests, incarcerations, torture, and killing of political opponents, Touré's ambitious and rigorous nation-building project has certainly left profound marks, and a strong sense of nationalism, albeit combined with an equally strong popular resentment of the state and its institutions (see Schmidt, 2005, 2007; McGovern, 2008, 2012, 2017; Camara, 2014).

Sékou Touré's successor in 1984, General Lansana Conté, was heralded for opening up the country, privatizing the economy, and introducing hitherto unknown levels of freedom and permissiveness, through which Guinean society underwent radical changes, absorbing foreign and global cultural influences from which they had long been separated. But although Conté slowly installed multiparty politics and organized (largely fraudulent) elections, power and state institutions remained personalized (see Barry, 2000, 2004; Bangoura *et al.*, 2006). In Conté's laissez-faire regime (1984–2008), ubiquitous corruption and impunity permeated the state, and when Conté's health started deteriorating in the first decade of the 2000s, it became increasingly obvious that different networks of politicians, technocrats, and the military had taken control of the state behind the façade of a president who proved incapable of governing. In 2007, Transparency International (2007) designated Guinea as Africa's most corrupt country, notably in a context of extreme inflation, which had made even staple foods unaffordable for the large parts of the population.

1 Our translation from French.

The same year 2007 also saw the emergence of broad-based protest movements across the country, however. Led by workers' unions, a general strike was organized throughout January and February 2007. The strike announcement regarded above all political and legal issues. A month earlier, President Lansana Conté had single-handedly freed two of his friends who had been imprisoned for the embezzlement of 22 million US$ of state funds, notably commenting "I am the state, I am the government, I am justice" (cited in McGovern 2008: 131, and in Engeler 2008: 87). Accordingly, the unions and their followers attacked "the interference of the head of state" in juridical matters, the "blatant violation of ... basic law," and "the notorious indifference of republican institutions" to call for a general strike "until the republican order is reestablished" (cited in Delamou, 2007: 22-23; see also McGovern, 2008).[1] Lansana Conté eventually conceded the election of a new prime minister and cabinet to the demonstrators, but his regime remained largely intact until December 2008, when Conté died following a lengthy illness. The subsequent bloodless coup by the military junta Conseil National pour la Démocratie et le Développement (CNDD) under Dadis Camara paved the way for two years of enormous political turbulence and instability (2008–2010) (see Engeler, 2008; Tolno, 2015; Camara, 2016), followed by a challenging first mandate for current President Alpha Condé (2010–2015), which was marked by the notorious Ebola epidemic from 2013 to 2016 (Leach, 2015; World Bank, 2016; Barry, 2017).

Even from this superficial timeline one notices that the Guinean *raison d'état* was reformulated drastically throughout its postcolonial history, and frequently over the past several years. Justice was routinely adapted to the respective regime's line of reasoning. Under Sékou Touré, the state's security and justice apparatus constituted key agents of constant political surveillance and control, seeking to suppress any kinds of dissenting voices. Driven by the regime's increasing paranoia, they were responsible for imprisoning, torturing, and killing those whom the regime deemed to conspire against the state. Under Lansana Conté, the state took the opposite role and hardly interfered with the general population in matters of law and jurisdiction. The justice sector existed in theory, but its annual budget usually remained at around one percent of the national budget. Many judges received no salary, which made local and national courts sites of notorious corruption, and sustained the popular conception of the judicial sector as unjust and benefitting only those with money and/or the right networks and contacts. Up to today, this conception remains, and also applies to the state in general, which many perceive as a corrupt and illegitimate network of elite interests. As Højbjerg *et al.* (2012: 13) argue, "It is not the national identity that is weak [in Guinea], but rather the identification of the nation with its [...] state," including "its representatives, institutions, and borders."

3.2 Guinea's formal state justice system

Guinea's judicial state system is largely based on the French legal system. It includes ten courts of the first instance out of which three are in Conakry, and one is in Kankan.[2] They deal with civil and criminal matters. Besides, there are two Courts of Appeal (second instance), again one in Conakry and Kankan each, and the Supreme Court in Conakry, which acts as the court of final appeal (Figure 3). There are, moreover, some specialized courts in Conakry, such as the Labor Court and the Juvenile Court.

2 Locations of the first instance courts: Boké, Kindia, Mamou, Labé, Kankan, Faranah, N'Zérékoré and three in Conakry.

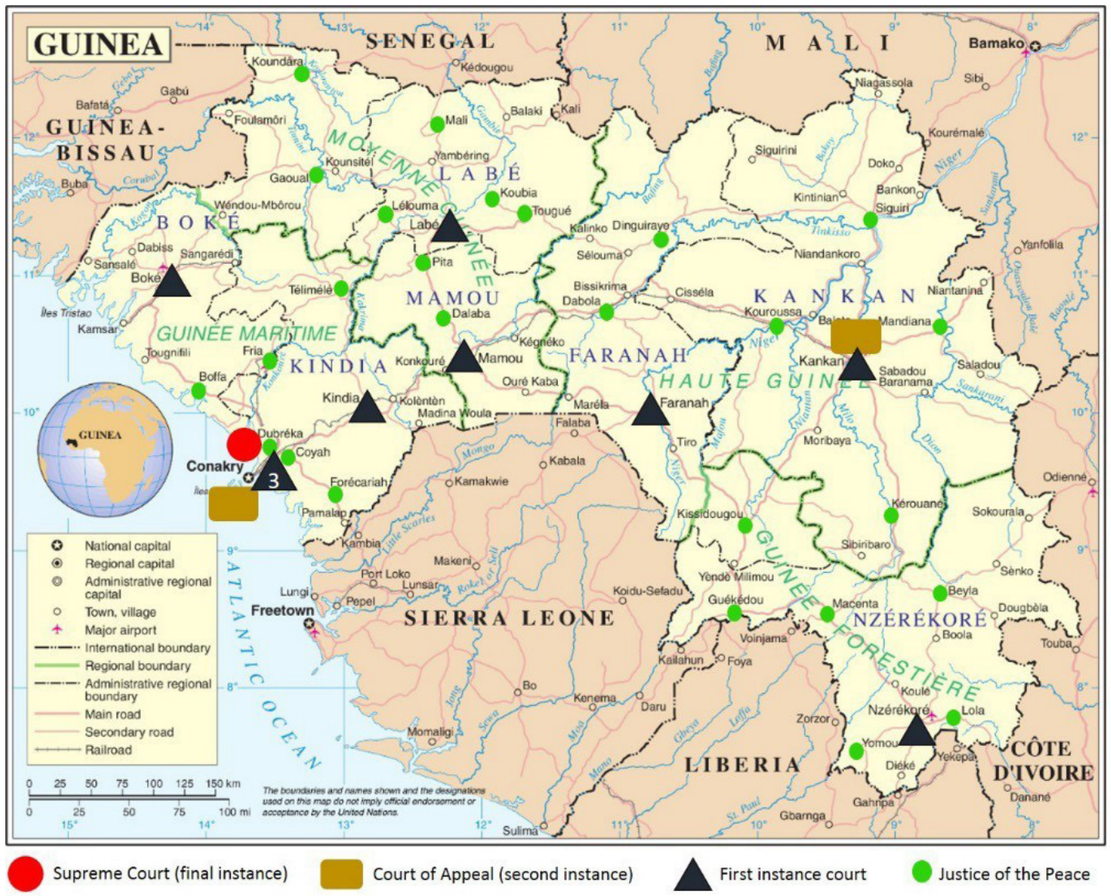

Figure 1: Location of tribunals of first and second instance

At the base of the system are 26 local tribunals or justices of peace. They are limited to settlement of private law issues and lesser crimes with prison sentences of no more than five days or fines of up to 50.000 Guinean Francs (around 5 USD). The only court with jurisdiction over felonies with prison sentences over five years is the Court of Assizes, a criminal court which is supposed to be convened at regular intervals within the facilities of the Courts of Appeal. Guided by the legal framework, the judiciary together with the police, the gendarmerie, the correctional system, and other relevant actors (e.g. bailiffs or clerks of court) constitute the basis for the state justice delivery system within a rule of law framework. Since their inception, these institutions show, however, a high degree of dysfunction and inefficacy. Many prerequisites and conditions required for a functional justice system under a rule of law framework, are not met.

3.2.1 Inadequacies: infrastructure, personnel and coordination

Guinea's political history and the heterogeneity of regimes have had a disastrous effect on the judicial sector. One of the most ill-equipped and underfunded sectors of the Guinean state, the judicial sector's infrastructure—its courthouses, prison facilities, police stations—are in a state of abandonment, and logistical needs for vehicles or means of communication necessitate constant improvisation in the daily life of state officials. The few magistrates outside the capital work in makeshift barracks, oftentimes without electricity or access to necessary legal documents; places of detention are overcrowded, and poor roads and means of transport prevent the state justice system from being accessible and present in rural areas. But even in towns and cities, state actors in the security and justice sector hardly have the capacity to ensure the rule of law.

As stated in the post-project review of the BEFORE project (Gürler 2016), many interviewees held that state officials themselves were to blame for much of the dysfunctionality of the state system: corrupt judges or law enforcement officers who gave right to the party who paid higher bribes, abusive authorities who used their power for their personal benefits, or ignorant personnel who did not know the legal texts they were supposed to represent. Within the state system, different branches identified different problems. When asked about the situation, members of the law enforcement agencies in Kankan, for instance, argued that their hands were tied to fulfill their role since they were understaffed and lacked radio equipment or proper means of transportation to go and collect evidence to a crime or interview potential witnesses. In their view, the judiciary was responsible for much of the dysfunctionality of the system given their very low capacity to process cases. The members of the judiciary unsurprisingly pointed the finger back at the police citing that they were often poorly trained and incompetent when investigating crimes, depriving the prosecution and the judge from much-needed evidence for a proper trial.[3]

Overall, due to their notorious inability to assure security and justice, state officials largely lacked legitimacy and trust in the eyes of the population. Protests, including violent attacks on police stations and courthouses have been the most visible expressions of dissent and distrust on the part of the population, further undermining the state's monopoly of power (e.g., see Kouyaté, 2016).

3 Interviews with international security experts, N'Zérékoré 15 February 2017; opposition party leader, Conakry, 31 January 2017; Guinea expert, Conakry, 1 February 2017. For more on the broader phenomenon in different West African bureaucracies, see Bierschenk and Olivier de Sardan, 2014.

Statehood and justice in Guinea

3.2.2 Inaccessibility: costs, geographical distance, and distrust

Guinea's poverty rate at over 50% (IMF, 2013), the adult literacy of 25 percent (UNICEF, 2012), and poor road networks and connectivity bespeak severe challenges for the accessibility of the formal justice system. The post-project review found that many Guineans had no access to the judicial sector because it was simply too costly and complicated, either in terms of necessary bribes, expensive transportation to court (travel time for people in many areas in Guinea can easily take several days for one way only), formal papers to be acquired, or because they felt they had no sufficient knowledge of how the system worked. Many individuals, be it claimants or defendants, cannot read or understand the documents that are produced in legal jargon or follow the mechanisms of a civil lawsuit or a criminal investigation. According to the post-project review (Gürler, 2016), most interviewees felt that a large majority of Guineans were unable to cope with the lengthy and opaque processes of the state justice system that would rarely produce results within a reasonable timeframe and at affordable costs. Despite some initiatives to promote the vulgarization and dissemination of legal texts in the main local languages, there remains more general skepticism vis-à-vis the formal justice system, not only because its codes and logics lack familiarity, but also because it is administered by a state that lacks the populations' trust, a much-needed resource in matters of justice and conflict resolution.

3.3 Informal justice mechanisms and legal pluralism

Owing to the inadequacies and inaccessibility of the formal justice system, alternative justice mechanisms have been thriving in Guinea. Embedded in community life and local governance structures, these informal normative frameworks constitute the main repertoire for Guineans to resolve conflicts (Landinfo, 2011). During the BEFORE post-project review, several interlocutors suggested the percentage of conflicts being addressed through informal actors and institutions and without recourse to formal courts to be well over 80%.

Informal justice systems and mechanisms cannot always be defined in terms of clearly bound sets of rules. More often than not, informal arbitration relies on a *mix* of actors and institutions, norms and frameworks. These vary considerably from case to case and according to regional, ethnic, religious, generational, gender- and class-related concerns and rural-urban differences. While Guinea's ethnic landscape is often conceptualized as overlapping neatly with its four regions, its reality is one of largely dispersed ethnicities and intermarriages (Goerg, 2011). Censuses are contested and estimates vary, with the Peul being usually estimated at slightly above and the Malinké at slightly below 30% of the population, the Soussous between 15 and 20%, and the Forestier categories at around 10% (see, e.g., Central Intelligence

Agency, 2019). As to religious affiliations, estimates consider about 85% of Guinea's population to be Muslims, 14% to practice Christian religions, and the remaining 1% to be animists (ABA, 2012: 7).

What these categorizations miss is that spiritual belief systems are as intertwined as communal traditions and norms. This is important when considering Guinea's legal pluralism. Conceptions of justice, whether inspired by religion, tradition, common sense or social milieu, are not separated into distinct realms; an individual's conception of what is right and wrong and how justice is to be exercised is clearly influenced by multiple and potentially heterogeneous sources. Accordingly, there is no specific authority that is responsible for informal conflict resolution. Informal mediators and unofficial judges include various local authorities, such as the chefs de village, religious and traditional authorities, elders and sages, women leaders, youth leaders, heads of businesses, but also formal officials in informal capacities. In short, anyone who embodies a position of trust and respect may be approached by conflicting parties to intervene, in accordance to norms and conventions that depend on who is interacting with whom.

Notwithstanding such ambiguity, and perhaps arbitrariness, there are indeed non-state institutions and mechanisms whose capacity to deescalate conflicts and negotiate settlements has been tested and confirmed in recent years. At the end of the 2010 presidential election campaigns, to provide but one example, rumors emerged in Guinea's capital city Conakry that Peul water vendors had poisoned drinking water to kill Alpha Condé's Malinké supporters during the latter's final campaign rally. Immediately, Malinké youth retaliated against the Peul in Upper Guinea, in the country's northeast, and between 1,800 and 20,000 Peul fled Upper Guinea. When the news about the anti-Peul attack reached Mamou, a Peul-dominated transit city in Middle Guinea, Peul youth wanted to block Mamou's main junction to let only Peul pass and to punish Malinké travelers. All of this happened within roughly 48 hours and, given that three of Guinea's four regions were concerned, it could have sparked nationwide ethnic clashes between Malinké and Peul.[4] However, the traditional leaders among both Peul and Malinké—including the *patriarch* of Labé, the *almamy-kalif* of Pita, the *sotikémo* of Kankan and other traditional authorities—jointly declared that all foreigners would be under their personal protection. The violence subsided immediately.

Such West African informal justice institutions have a long history. Notwithstanding current and previous instances of ethno-political polarization, Guinea's ethnic groups have cooperated with one another since precolonial times, not only economically. As part of their pacts and peace treaties—for example, between Peul and Malinké—dignitary families sent large numbers of family members to live in the other group's capital city as a sort of guarantee against the escalation of conflict. These families still live in Kankan, Pita, and Labé, and are part of the reason why Guinea has remained a comparatively peaceful country despite an evident risk of fragility. Traditional authorities, including sages, notables, and *griots* (masters of oral history) steadily remind Guineans of their common history and their ancestors' interethnic pacts. Among these pacts is the famous charter of Kurukan Fuga from 1236,

4 Interview with Alpha Taram Diallo, Conakry, January 17, 2017.

established in the Mali Kingdom, which regulated intra- and interethnic social relations on the basis of 44 articles (Niane, 2000; Niang, 2006). These included, for instance, the principle "Never do harm to foreigners" (article 24), and article 7 ("Differences between groups should never degenerate, the respect of the other being the rule"), which also established the *sanankounya* (in French: *cousinage* or *parenté* de *plaisanterie*).

The *sanankounya* is a tradition of joking kinship, whereby specific families or clans within and across ethnic groups are linked by a "quasi-kinship alliance" which "prohibits open conflict between these metaphorical cousins" (Galvan, 2006: 810).[5]

> Joking partners typically tease each other about their big bellies and love of eating, but the ribbing can be extended to other topics as well. Custom dictates that partners can interact in ways that would ordinarily be frowned upon or cause offense. Joking kin are not supposed to become angry with each other and offending or harming joking partners is prohibited (Davidheiser, 2006: 838).[6]

In fact, despite the teasing, joking kin are even expected "to show special willingness to support or provide material resources when their 'cousins' are in need" and to intervene in the "internal conflicts of the group with whom they are paired as cousins" (Galvan 2006, 810). Joking kinship is widely practiced across Guinea and the overall region and used as a commonplace rhetorical tool to make fun of one another and relax the conflictive situations that arise in everyday life.

Informal justice mechanisms in Guinea, and in West Africa more generally, also draw on shared normative understandings based on Islam (Sanneh, 2016). The Muslim community frequently alludes to Guineans' largely common faith in times of political crisis, and Peul and Malinké imams have been key authorities in recent reconciliation efforts. Though these efforts have been rather symbolic, they demonstrate that Islam provides an important spiritual, normative, and cultural framework to which most Guineans, with the critical exception of the *Forestiers*, can commonly relate.

Other actors involved in ensuring 'law and order' are the *donzos* (Gürler, 2016; see also Bassett, 2003). They regroup traditional hunters and trackers from West Africa's Malinké population and are present in much of West Africa, including in urban areas. Donzos are believed to possess supernatural powers and are revered by some and feared by others. In some parts of Guinea, the donzos can be the only armed and organized agents to ensure compliance with customary law or to pursue criminals. A representative of a women organization in Kankan stated during an interview that the donzos were very efficient: "we were once dealing with a rape case involving a minor, and they managed to catch him before he could pass the border into Mali. The police officers could not do this."

The mix of actors and institutions that intervene in conflicts need not always be rooted in tradition or religion. In the city of Kankan, Gürler (2016)

5 There are also codified joking relationships within families; for instance, between grandparent and grandchild, known as mamariiyaa (Davidheiser 2006, 838).

6 The mention of "big bellies" may be misleading. In fact, slavery is an equally common theme in joking kinship. As Galvan (2006, 810) notes, joking kinship, including "oft-repeated banter about slavery and subordination," seems to "deploy metaphorical cousin bonds [...] to conceal or redirect historical memories of past conflict and/or shared trauma, or to mitigate potential circumstances of conflict in the present day."

found a primary provider of security and justice to be urban youth.[7] Featuring highly standardized structures in all of Kankan's neighborhoods, youth organize in specific groups, each of which is in charge of a distinct neighborhood and comprises elected officials, including a president, vice-president, a security delegate who is the focal point for security-related issues in the neighborhood, a secretary, and a treasurer. The youth groups have linkages to the chefs de quartier and other authorities and often collaborate with them. Police officers in Kankan explained that if they needed to investigate a criminal offence in the city, they would approach the youth leaders of the neighborhood concerned. Since police officers did not have the necessary authority or equipment to fulfill their task efficiently, it was the youth who would look for suspects or witnesses so that they reported themselves to the authorities if necessary. The majority of cases, however, was resolved by the youth themselves or by respected elders acting as mediators. Youth representatives felt that disputes and conflicts needed to be approached from a community perspective. Peer pressure would serve as a useful tool to mitigate crime and resolve issues based on solutions that were accepted by all the conflicting parties. Philipps (2013) has found very similar mechanisms to be prevalent among youth *staffs* in Conakry.

Alternative and informal justice systems are far from being mere standins for state justice systems. It is important to appreciate that there are fundamental differences between the two. Positive law, for instance, relies on the clear distinction between a victim and an offender, for instance, with the latter's culpability to be judged in court. Guinean traditional justice, on the other hand, relies on the principle that none of the conflict parties must lose face, the underlying idea being that they and their families need to coexist peacefully for generations to come.[8] The core principles and value systems that underpin formal justice, such as a focus on individual rights, punitive action and an adversarial system of law where advocates represent and fight for their party's position instead of a neutral party trying to determine the truth, differ substantially from the norms and values of local communities that make up Guinea. Informal approaches to justice are largely guided by the need to restore adequate levels of harmony, to remedy anti-social behavior, and a need to decrease the risk of ongoing feuds within communities and across communities. This approach is crucial in regions where cooperation is often the only way to ensure that the communities' needs are met and their survival ensured, especially in view of lacking service provision by state organs that are absent in large parts of Guinea. Individual rights are thus subordinate to the well-being of the entire community. Community lives in rural Guinea rely heavily on peaceful cohabitation and cooperation, which according to community members interviewed during the post-project review are much better safeguarded by informal justice mechanisms. Thus, even if the state justice system were fully functional and efficient, they argued, it would not adequately cater to their needs. In sum then, and in spite of the informal justice systems' pluralist nature and their lack of coherence, their key advantage over the formal justice system was that conflicts were negotiable on the basis of locally accepted systems of meaning.

7 The term 'youth' does not refer to an age bracket in Guinea but to a social category. In highly simplified terms, youth are seen as not-yet-adults, as those without a job, a house, or a family. On Guinea, see Straker (2009); Philipps (2013a); on the broader literature on African youth, see Diouf (2003); Durham (2004); Comaroff and Comaroff (2005); Honwana and de Boeck (2005).

8 Interview with Didier Bazzo (Guinea expert), Conakry, 1 February 2017.

Two caveats need to be made here. First, informal justice and security-related mechanisms and institutions are not to be romanticized. They may be more affordable and adapted to local norms than Western-inspired jurisdiction, but they, too, can be discriminatory and unjust. For instance, just like the *de facto* public services, informal services tend to privilege men and adults over women and young people. As in public courthouses or police stations, corruption looms large in informal settings, whether in terms of monetary bribes, nepotism, patron-client relationships, or simply in terms of reciprocity within established power relations. In the same vein, vigilante groups may be more efficient and trusted than the police and gendarmerie, but they may equally abuse their authority. In N'Zérékoré where trust in law enforcement is at its lowest (10.9%) and trust in vigilante groups is at its highest (40.1%), the same auto-defense vigilante groups may extort arbitrary "commissions" from local residents (COGINTA, 2014: 175). In Conakry, neighborhood-based youth formations and so-called clans, may assure comparative security in their own district, but commit crimes in other districts (Philipps, 2011).

Conversely, it would be equally misleading to condemn informal justice mechanisms as static and steeped in outdated traditions or corruption. As seen in the cases of urban youth in Kankan and Conakry, or concerning the *cousinage* de *plaisanterie* (Smith, 2004; Davidheiser, 2006; Galvan, 2006), informal justice mechanisms are syncretic institutions that evolve over time and in interaction with their environments. The gerontocratic relationship between elders at the top and youth at the bottom, for instance, has been challenged in Guinea in recent years, and youth have gradually started to negotiate their position in society, albeit successes are hard-earned (Philipps, 2017, 2018). Moreover, the case of youth collaborating with police officers in Kankan demonstrates that informal and formal justice mechanisms do not necessarily contradict one another, as youth groups are widely respected by the community, the chiefs, public security forces and local authorities.

This leads us to the second caveat, which is not to consider formal and informal justice mechanisms in terms of a binary, but in terms of their constant intertwining and entanglement. Since the legal and normative environment in Guinea is one of utmost heterogeneity, different systems of justice, formal and informal, are routinely combined (Bierschenk, 2010; Bierschenk and Olivier de Sardan, 2014). How these combinations play out in practice is crucially dependent on the situation at stake. Whether one evokes religious principles, Guinean law, social norms, family obligations, or common sense is just as context-dependent as one's choice concerning a suitable intervenor or mediator: whether one calls upon one's brother, a state authority, the chef de quartier or the local youth gang. To be sure, certain social categories have access to certain justice systems and not to others, but most have access to multiple systems, which makes justice provision a highly ambiguous and arbitrary endeavor fraught with confusion and uncertainty.

3.4 Inevitable dilemmas

Given the dismal state of the formal justice system and the significance of informal justice mechanisms, state officials in the judicial sector face inevitable predicaments. While they are supposed to unambiguously enforce the law, they also must constantly adapt their behavior to their respective interlocutors. Judiciary state institutions find themselves in frequent contradiction with informal institutions of customary law, which causes dilemmas for public servants who feel caught between formal and informal roles and responsibilities. Moreover, their official role is rarely clear to Guinean citizens. Since the division of powers has never been an effective attribute of Guinean statehood, public servants tend to be perceived (and tend to act) as officials in power who are called on to make a just decision (or bribed to make a favorable one), and the contradictory plurality of rules generally leads to ad-hoc decisions that render statehood essentially contingent on who interacts with whom.

Finally, and this is where we turn to the BEFORE project, these disparate norms are also a product of donor interventions, which have substantially shifted their development priorities, either to adapt to the constantly changing political context or to the ever-evolving global policy agenda. Furthermore, the lack of donor harmonization has created a variety of foci by different agencies with different modalities, which has contributed to the sense of political disorientation in the country.

4 The BEFORE project

The BEFORE project "*Judicial Reform: Empowering magistrate – civil society collaboration for Guinea's new democratic future*" was designed to contribute to three long-term impacts of Guinea's justice reform: independence and accountability of the judiciary, improved access to justice for the wider population, and greater public trust in the state (BEFORE, 2011). Two years after the project was concluded, an impact assessment (Gürler 2016) found little evidence of progress in Guinea towards achieving these goals. As to the BEFORE project itself, the post-project study concluded that, while all former beneficiaries had seemed to appreciate the project and benefitted from the activities at an individual level, it has not had any tangible impact on their work environment and respective institutions. Moreover, the impact assessment demonstrated that beneficiaries and stakeholders, two years after the project, actually questioned the usefulness of the state-centered approach that the project had promoted. Informal actors and institutions, they argued, would have had to be included in the wider reform process, since the vast majority of disputes between individuals or groups in Guinea were dealt with by actors and institutions with no official state mandate.

This section analyzes these findings. Starting with a short description of the institutional and political context that BEFORE relates to, it elaborates on the key project activities and main findings of the post-project review. Secondly, it shows how the concepts and underlying assumptions held by donors, policy makers and implementing partners about justice sector reforms and civil society informed the project design in ways that made it difficult to achieve the project's overall objectives.

4.1 Broader Institutional Reform Context in Guinea

The BEFORE project was inscribed in a broader political effort after the 2010 elections to promote human rights and the rule of law in Guinea. Through a far-reaching reform of the security and justice sectors, the new Guinean government and international donors hoped to make legal institutions more efficient and accessible. Mandated by presidential decree in November 2011, various bodies were put in place to implement the reform, including the Commission of Policy and Strategic Guidance, the Commission for Technical Support and Monitoring and Evaluation, a Management Unit, and an Executive Secretariat. A 'Justice Platform' was established to facilitate dialogue between members of the judiciary, international partners, civil society and Ministry of Justice representatives, and to help mobilize resources for planned activities. A strategy paper for reform implementation[9] was drafted in 2012 and complemented by a 5-year action plan[10] with an overall budget of roughly 75 Mio. USD. Other steps included efforts for creating an improved legal basis for judiciary independence, namely the adoption of the special status of the magistrates[11] and the establishment of the Supreme Council of the Judiciary[12] tasked with ensuring proper functioning and discipline within the judiciary.

Despite the creation of these structures and bodies, the reform process was never properly initiated until after the much-delayed legislative elections in 2013. Even since then, the reform has not enjoyed strong momentum and

9 La Politique Nationale de Réforme de la Justice (2014-2024), Ministère de la Justice.

10 Plan d'Action Prioritaire de la Réforme de la Justice (2014-2019), Ministère de la Justice.

11 Organic Law L/054/CNT/2013.

12 Organic Law L/055/CNT/2013.

received only limited support from government. The National Steering Committee did not meet until April 2014 and the constitutional court was not established until 2015, five years after it had been mentioned in the 2010 constitution. The weak commitment was mirrored in the allocated budget which accounted for less than 1.5% of the overall state budget. Essential infrastructure and services as well as the 5-year action plan remained underfunded, which significantly slowed down the reform process. The most significant visible contribution of the government had been the provision of the premises for the managing reform bodies, though these, too, were only poorly equipped and understaffed.

Reform implementation relied heavily on donors and international aid organizations. The biggest donor at the time of this study was the European Union which financed the reform process with € 20 Mio. over a 36-month period.[13] Other contributors included UNDP, USAID, France, UNDEF, and GIZ. Their financial support aimed at providing technical assistance and advisory services to the Ministry of Justice, buying office equipment for the Reform Secretariat, and funding particular reform programs such as the training of magistrates and the fight against impunity, amongst other things. Some achievements notwithstanding, all interlocutors interviewed for the post-project review agreed that the reform was moving slowly at best, if not stagnating (Gürler 2016). Access to justice was as much of a challenge as it had been before the reform and mistrust in government institutions had remained widespread.

4.2 Project rationale and design

When the Guinean government formally requested the UN's assistance in January 2011, bilateral donors and policy makers considered its political will and broad-based support for democratic change to be high. UNDEF provided the initial financial backing for the BEFORE project.[14] In line with UNDEF preferences and its mandate, the BEFORE project aimed at contributing to an overall improved access to justice, the promotion of an accountable and independent judiciary and increased public trust in state institutions through enhanced civil society engagement. More specifically, the project was to tackle what it identified as the two main obstacles to civil society engagement in the broader reform process, which also informed the overall project design (BEFORE, 2011: 3):

1. **Lack of basic knowledge** about and **capacity** for advocacy, monitoring and judicial oversight among civil society organizations (CSOs): Critically insufficient levels of knowledge about basic democratic rights and how the Guinean justice system should function, combined with decades of bad governance, violence and human rights abuses, has resulted in under-developed advocacy and monitoring capacities in terms of judicial oversight.

13 The PARJU program supports the Guinean government in promoting democratic principles and respect for human rights, in particular with regards to justice and the fight against impunity. It also provides support to reform of the prison system.

14 The project had an overall budget of USD 425,000 and was funded by the United Nations Democracy Fund (UNDEF), and later on co-financed by an individual donor, and the United States Institute of Peace (USIP).

2. **The Absence of an institutionalized mechanism for facilitating dialogue and collaboration** between civil society and the judiciary: Magistrates and judicial personnel have little knowledge about working with civil society to ensure that their needs and concerns about access to justice are effectively addressed. Although civil society has been consulted on reform issues, current efforts fall far short of an inclusive and participatory process resulting in an under-representation of civil society interests in the broader judicial reform process currently underway.

Three distinct streams of activities were designed by the project team to address the identified problems and achieve the envisaged outcomes: training activities, funding of civil society initiatives, and the creation of a mechanism for structured dialogue and collaboration between civil society representatives and the judiciary. In a first phase, training was provided for 60 CSO representatives, 60 magistrates and 60 auxiliaries of justice. The latter included judicial police officers from both the gendarmerie and the police, clerks of court, and key staff to build capacity and awareness for the importance of the role of civil society in the judicial reform process. Small sub-grants were made available for CSO initiatives to garner more substantial public support for judicial reform. In a second step, the project foresaw the establishment of a civil society-judicial platform in Guinea's capital Conakry. This *Forum Civilo-Judiciaire* (FCJ) was thought of as a key mechanism through which civil society involvement in the reform process could be ensured. It was to provide space for dialogue and collaboration and for the elaboration of a joint action plan that would directly feed into the judicial reform process. Two joint regional workshops with participants from the pool of beneficiaries of the first phase were planned to set up the joint platform. The creation of effective linkages between strong public support for judicial reform, committed political will, as well as collaborative capacities, were considered vital for any meaningful progress. The project logic and assumed impact pathways are depicted in Figure 2.

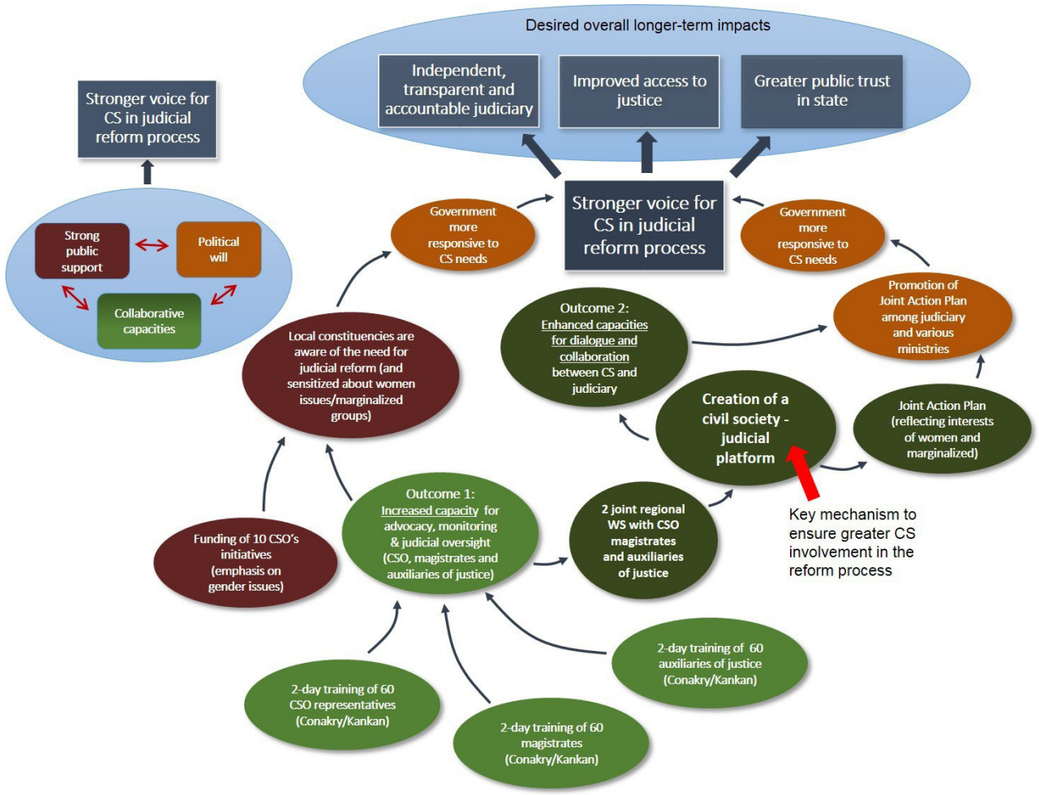

Figure 2: Theories of Change model of the BEFORE project

As the theory of change illustrates, a vocal civil society with enhanced capacities in advocacy and an institutionalized forum for dialogue between CSOs and the judicial sector were considered of strategic importance for increased government responsiveness to civil society.

Importantly, the project design and rationale reveal several underlying assumptions and conceptions which, as will be argued in this Working Paper, prove to be problematic:

1. First, diffusion of knowledge about the ideal functioning of the formal justice system and capacity building related to democratic procedures were assumed to lead to changes in attitudes at the personal level and encourage changes at institutional levels. In other words, the BEFORE project assumed that targeted representatives from the judiciary and law enforcement agencies will be able to apply the newly gained knowledge and change working modes within their organizations and institutions.

2. Secondly, the promotion of civil society organizations (CSOs) to partake in and shape the reform process was thought to ensure that 'the voice' and interests of the population are represented in the judicial reform. Civil society inclusion was assumed to be more or less synonymous with local ownership and broad-based support for the judicial reform, from national down to local levels. In sum, this should make reform outcomes fairer.

3. Third and finally, a major underlying assumption was that a justice sector molded after the Western model can meet the demands and needs of Guineans and is suitable in the local context and reality.

Absent from these underlying assumptions is the appreciation that reforming the justice system is a highly political undertaking, and should not be understood as a technical activity (OECD, 2007). The primary objective of judicial reform is, first and foremost, the creation of efficient and democratically controlled institutions that are capable of enforcing the rules and norms established under a central authority down to the local level. It challenges local views on how society should function and what social norms and values should underpin it, and is ultimately about promoting profound social and political change.

4.3 Direct project outcomes and results

4.3.1 Promoting capacity and affecting institutional changes through training

At an individual level, the study of the BEFORE project (Gürler 2016) found that some tangible results were still noticeable two years after conclusion of the project.[15] All of the former project beneficiaries who underwent the 2-day training sessions, from CSO representatives to the members of the law enforcement agencies and the judiciary in Conakry and Kankan, felt that their understanding of how the state justice system was *supposed* to work had much improved. The joint project activities have helped create new personal connections with other key actors and stakeholders of the justice system. The newly gained understanding and the personal contacts between the different groups had a positive influence on their daily work, although at varying degrees. Interviewed beneficiaries stated that they were now theoretically in a better position to identify relevant actors who needed to be approached within the state justice system.

Nonetheless, there was an overwhelmingly shared sentiment that the overall justice system remained dysfunctional, plagued by a lack of qualified personnel, widespread corruption, and inadequate infrastructure and equipment, including in urban areas. Thus, opportunities for applying knowledge acquired during the trainings remained limited. Judicial Police officers (JPO) from the gendarmerie, operating under the Ministry of National Defence, stated that problems still arose when trying to pass case files along the chain of the justice system, mainly in light of the small number of skilled magistrates and other key staff on the ground. The low processing capacity of the

15 See also the external project evaluation carried out by Transtec (2014).

judiciary would force them to free individuals that could only be held for a maximum period of 48 hours without being charged. This, in turn, provoked discontent and anger from the local population who did not understand the constraints and checks imposed by the legal framework.

With regard to the JPOs working with the civilian police, the picture that emerged was even bleaker. While the knowledge and understanding of the project participants had likewise increased, they indicated that they were rarely involved in the handling of cases. The police lacked most basic equipment and infrastructure, such as adequate offices, basic furniture, vehicles and radio equipment and felt that they did not command respect and authority vis-à-vis other stakeholders and the population. Indeed, the police stations in Kankan visited during the fieldwork more than highlighted these challenges. The makeshift offices in a rundown building had no proper electricity supply, let alone appropriate furniture or office equipment. Light sources were scanty, and police officers we met during the post-project review seemed somewhat subdued and discouraged from doing police work.

It was harder to assess any sustained benefits and effects of the training among the group of magistrates. Most were no longer occupying their posts and thus unavailable for interviews. In Kankan it was alleged that all but one of the magistrates who had received training had been removed from their duty station due to wrongful acts or suspicion of corruption. The removal of the judges was a reaction of the government to recurrent, and often violent, public protests. The few remaining magistrates interviewed, however, confirmed, that they, too, enjoyed improved working relationships with judicial police officers and other actors thanks to the project.

Overall, it has to be noted that despite some still noticeable effects, the impact radius of for the training activities had remained rather narrow. Effects from the training activities were not observable beyond a personal level and did not lead to knowledge transfer to their immediate work environment nor trigger any changes at the institutional level. Interactions between the different stakeholder groups remained limited to personal contacts established during the training.

Another important observation is that the vast majority of interviewees felt that their hands were, moreover, tied by a social reality that functioned according to its very own logics and was hardly receptive to the ideals of justice administration that had been propagated during the trainings. Interestingly, all of the project beneficiaries interviewed suggested that project activities should have included a much wider range of actors. It was not sufficient to concentrate on actors with a formal role in the state justice system as the vast majority of cases involving disputes between individuals or groups of people were dealt with by actors and institutions with no official mandate from the government. The latter were said to be often more efficient than state agents because they worked in a culturally adapted way and through locally accepted means. A very small number of stakeholders interviewed, namely the gendarmerie in Kankan and one of the magistrates, were more suspicious of traditional and informal actors and perceived some of them as both interfering and

incompetent. However, they equally felt it was crucial to include them, if only for education purposes. All other stakeholders, including some of the representatives of the state justice institutions, even in Conakry, saw informal actors and institutions as an important and complementary element of a justice delivery system suited to Guinean needs and realities.

It could be suggested that the lack of institutional effects could be mitigated by more extensive training activities for more people. Yet, there are fundamental limits to scalability. Even in its limited actual scale, and although the project was located in urban centers with the highest level of judicial activities (Conakry and Kankan), the project faced severe logistical challenges, including long travel times for beneficiaries to training locations during project implementation. Thus, even if it were desirable for trainings to encompass a larger number of beneficiaries in all parts of Guinea, the implementation thereof is highly unlikely.

4.3.2 Promoting capacity and affecting institutional changes through training

The project also awarded seven small sub-grants (USD 4,000 – 5,000 each) to CSOs in the Conakry area and in Kankan to implement projects that would promote public awareness and more comprehensive support for the judiciary reform process.[16] The projects focused on a variety of areas. Some sought to enhance general knowledge about the justice system among the public, others promoted the right to health for prisoners, and yet others aimed at improving cooperation between traditional chiefs and the judiciary police officers in urban areas. The seven initiatives had a combined outreach capacity of around 200 direct and an estimated 1,500 indirect beneficiaries. Five out of seven grantees successfully implemented their planned activities (see also TRANSTEC, 2014).

The post-project review found that the majority of small-grant initiatives produced at least some measurable effects at the level of immediate beneficiaries (Gürler 2016). Similar to the training component of the project, understanding of the modern justice system was enhanced among the former project participants. What is important to note is that the small grant scheme included a much broader range of stakeholders among project participants, including traditional and religious leaders. Interestingly, the public support for the judicial reform process was not necessarily enhanced, especially among traditional and religious leaders, but also members of the larger public who remained skeptical of it. However, the activities proved to provide a much-needed opportunity and space for dialogue and engagement between formal and informal actors involved in justice delivery. The involvement of key figures and leaders respected by the communities was a vital element that allowed exploring existing tensions between the state and non-state actors.

4.3.3 Creating an institutionalized mechanism for sustained civil society participation in the reform

The Forum Civilo-Judiciaire (FCJ), the official platform for exchange and

16 The grantees of the sub-grants scheme were AGIL (Kankan), AGUIFEDI (Dubréka), AJEDDEF (Fria), APROSAG (Conakry-Coyah), OGDDC (Conakry), Sourire International (Conakry), UJVC (Coyah).

dialogue between members of the judiciary and civil society, was not accomplished by the end of the project in March 2014 and was still pending at the time of the post-project review. While preliminary groundwork had been done, and critical documents such as statutes and guidelines of procedure as well as an action plan were drafted, an official accreditation by the Ministry of Internal Affairs (Ministère de l'Administration du Territoire et de la Decentralization, MATD), was still outstanding. Nonetheless, the Ministry of Justice invited individuals involved in the creation of the platform to participate in formal meetings together with other civil society actors such as trade unions, representatives of the Guinean civil society umbrella organizations and members of specialized NGOs working within the justice domain. As stated by many interviewees, the formalized nature of these events left little space for concrete and controversial debates.

In response to these results, or the lack thereof, the following section enquires into the causes for the difficulties that the project experienced. The main argument is that the underlying assumptions that guided both the overall reform process and the BEFORE project were not sufficiently questioned and adapted to the Guinean context. The complex and unwieldy nature of the Guinean judicial and normative context has been underestimated, while the capacity and suitability of civil society organizations to represent the general population has been overestimated. Moreover, it had been wrongly assumed that a justice sector molded after the Western model would be able to meet the needs and demands of Guineans and was suitable in the local context and reality. This, as shown in this Working Paper, needs to be questioned and relativized.

4.4 Problematic underlying assumptions

To reiterate, we identified three underlying assumptions that were of fundamental importance to the BEFORE project and are widely shared by policy makers and aid actors: (1) the idea that diffusing knowledge about the formal functioning of the judicial sector would lead to behavioral and institutional changes, (2) that civil society can shape the judicial reform process in ways that ensure that the voice and interests of the broader Guinean population are represented and (3) that Western justice models can be transferred to any context regardless of its cultural, social and economic reality. This section critically discusses these assumptions.

First, the post-project review contradicted the idea that diffusing knowledge would transform individual behavior and consequently institutional dynamics. The vast majority of beneficiaries could not apply the knowledge acquired during the trainings. Their socio-political surrounding continued to function as it had before, and impeded behavioral and institutional changes. Aside from the over-ambitious aim of transforming behavior and institutions through two-day workshops, amongst other things, the project's sole focus on lacking knowledge as the underlying problem and knowledge provision as a solution bespeak a reductionist reading of the Guinean situation. As we have seen in the previous section, legal pluralism necessitates

multiple knowledges, as well as the capacity of combining them. Assuming that an improved knowledge of one strand (Western jurisdiction) will solve the problem ignores the importance of non-Western knowledges as well as the challenges of actual jurisprudence in a context of heterogeneous normative systems.

Notably, it was in this context that all of the project beneficiaries interviewed during the post-project review suggested that the training provided within the framework of the BEFORE project would have needed to include a much wider range of actors. Within the context of judicial reform, they argued, it was not sufficient to concentrate on actors with a formal role in the state justice system and to rely on NGOs and CSOs as the sole representatives of the broader population. Since most conflict resolution was handled by people who were neither state agents nor members of official civil society organizations, a genuinely participative judicial reform would have needed to include a broader set of stakeholders, who actually have a strong influence among the Guinean population. For instance, an imam in Kankan underlined during the post-project review that he, along with other young and open-minded imams, was actively involved in stopping the practice of female circumcision among the members of his community. He explained that as a respected religious leader, he had much more bearing than, for instance, an NGO when it came to promoting changes in attitudes. This was because religious norms strongly influenced the attitudes and behavior of the local population. Thus, to induce social change, he argued, it was paramount to include and work with those who have the most influence and ability to do so.

In sum, this would have allowed for a more representative interaction between people and their diverse normative and legal repertoires for conflict resolution that everyday social and political life in Guinea consists of. Moreover, and this will be discussed below, such an interaction could have made the reform process more sensitive to Guinean demands and needs.

The second assumption that guided the BEFORE project, and which equally permeates international policy discourse, was that civil society represented the interests of the Guinean population. Indeed, the inclusion and participation of civil society in the reform process was a major requirement of donors and international partners. BEFORE thus relied on civil society participation as a pathway to achieving longer-term desired impacts: improved access to justice and improved state-society relations. More specifically, the project relied on two implementation partners. The first was the Regional Council of Civil Society Organizations (CROSC) in Kankan, which is part of the National Council of Civil Society Organizations (CNOSCG), one of the major umbrella organizations that regroup civil society actors at a national level. The second was the Association of Magistrates of Guinea (AMG), which is the only professional organization of judges in Guinea, with offices in Conakry. These partners were assumed to ensure greater proximity to relevant project beneficiaries and to help promote exchange and dialogue between the various groups.

However, the two organizations, and civil society organizations in general, did not seem to necessarily represent the broader population. According to interviews held during the impact assessment of the BEFORE project (Gürler 2016), rural populations were hardly familiar with the concept of civil society. Urban populations in Conakry and Kankan, in turn, did not necessarily feel represented by CSOs. Even a study from the National Council of Civil Society Organizations in Guinea states that "Guineans have very low levels of engagement in civil society actions and that concepts of citizenship, citizen participation, and civil society remain foreign" (CNOSCG, 2011). Secondly, civil society institutions have become increasingly politicized. Already in 2010, sociology professor Prof. Bano Barry argued that "what we call civil society in Guinea does not exist. These are simple annexes of political parties."[17] While some may indeed keep a critical distance to politics, many are actually deeply involved in local and national power politics. Third, many civil society leaders have come under suspicion of corruption in recent years, and various member institutions decided to part ways with the CNOSCG and regrouped under new umbrella organizations like the CONASOC (Coordination Nationale des Organisations de la Société Civile Guinéenne) in 2009. The different umbrella organizations' fierce competition over international and national funds has profoundly weakened civil society cohesion.

In sum, civil society organizations are often too dependent on both international funding and local power structures to represent grassroots concerns that may be at odds with international policy and state interests. In the case of the judicial reform and during the BEFORE project, for instance, civil society representatives never mentioned the necessity of including non-state informal actors, even though this appeared to be a widespread concern among the broader population in the post-project review two years later. This empirical finding confirms previously mentioned criticisms of civil society in academic debates (see section 2.3). While international donors consider civil society as ensuring participative, bottom-up approaches, the Guinean example suggests that civil society may mirror that image to donors, but in fact proves often disconnected from the respective populations and/or incapable of representing their actual concerns.

Guinean history has shown that civil society exists beyond the conceptual frames and projects financed by donors, as during the broad-based momentum for democratization in 2007 and 2009. Based on workers unions, youth formations, associations, local NGOs, and spontaneously joined by thousands of urban dwellers and diverse segments of the Guinean population, these instances have demonstrated that there is sufficient potential for a more diversified civil society in Guinea, and for civil-society driven change based on genuine community needs and desires. Yet, internationally funded projects like BEFORE place CSOs at a delicate nexus fraught with contradictions between international, national, and local levels and norms. Navigating a complex political economy of scarce resources, they mostly subscribe to the logics set by international donors, which in the case of the Guinean judicial reform were exclusively state-centered. Inevitably, this comes with marginalizing broad-based concerns for non-state informal justice institutions that constitute an integral part of how Guineans actually manage conflicts in everyday life.

17 Dr. Bano Barry, Université Kofi Annan de Guinea (UNIKAG), Conakry, Guinea, April 14, 2010. Recorded and translated by one of the authors.

This leads us to the third underlying assumption: that Western justice models can be transferred to any context regardless of its cultural, social, political and economic reality. This assumption underlies most international policy, whether in development or peacebuilding, in Guinea or elsewhere. The Guinean case shows how questionable the assumption is, not only because of practical limitations regarding scalability, lacking infrastructure, and lack of qualified personnel for the tasks at hand, all of which have profoundly compromised the implementation of the project and curtailed its impact. More fundamentally, we argue (notably in line with mainstream policy literature) that any kind of major political change must be owned and supported locally to have a chance of success in the long run.

Such support and local ownership was largely lacking in the case of the security and justice sector reform in Guinea. The government, although it formally requested external aid from international donors and committed to the reform, did not follow through with its promises: the state institutions that were supposed to implement the reform were hardly functional and the government failed to provide official accreditation for the forum, even though the platform included representative from the Ministry of Justice.

Perhaps most importantly, all project beneficiaries interviewed two years after the project suggested that the trainings should have included a wider range of non-state justice actors. In fact, many interviewees complained about continuous harassment from law enforcement agencies (police and gendarmerie), rampant impunity and corruption within state institutions, and argued that even if the state justice system were fully functional and efficient, it would not adequately cater to their needs. Besides, interviews highlighted that the Western justice system remains opaque for most Guineans; except for a few Western-educated individuals, the general population was largely unconcerned with the ongoing reform process.

5 Conclusion and implications

While this Working Paper concentrated on the BEFORE project in Guinea, its implications concern much broader questions of international policy on judicial reforms in contexts of legal pluralism. In this conclusion, we highlight two key issues that have emerged from our analysis: first, the discrepancy between an exclusively state-centered policy approach and a heterogeneous socio-political reality with multiple justice systems, and secondly, the contradiction between the policy makers' self-professed aim of an inclusive, participative reform process and their actual neglect of popular concerns. After having elaborated on these two issues, the final paragraphs provide policy recommendations to guide future reflection on judicial reforms in contexts of legal pluralism.

As the Guinean case demonstrates, the question of incompatibility concerns not the incompatibility between informal and formal justice mechanisms. Informal and formal justice systems can be complementary and indeed are frequently intertwined, as in the case of Kankan's urban youth who collaborate with formal institutions in matters of security and justice provision. Rather, the contradiction, or incompatibility, concerns policy makers' ideal of the state as the sole legitimate provider of judicial services on the one hand, and Guinea's socio-political reality on the other. Featuring highly inefficient and delegitimized state institutions, most Guineans rely on a diversity of non-state justice systems to settle their conflicts, and the state is by no means a privileged institution for arbitration. Neglecting and ignoring this reality means pursuing policy goals that lack both feasibility and local support, and thus inevitably fail to materialize in practice.

The BEFORE project is but a case in point here. While beneficiaries appreciated that the trainings provided them with a better grasp of how the formal justice system was *supposed* to function, their everyday work environment continued to operate along its own heterogeneous logics, which left their newly gained knowledge without any concrete institutional impact. Trying to make the formal justice system the only game in town, so to speak, proved unrealistic in a political environment where the state neither had the capacity nor the legitimacy to ensure the rule of law, and in a social environment where heterogeneous logics and normative frameworks were routinely combined without granting exclusive priority to any of them.

That being said, the post-project review of the BEFORE project did find the majority of stakeholders to be in favor of informal and customary mechanisms, preferring them over state jurisdiction, which they considered indifferent or at odds with their religious beliefs and social norms. Informal and communal approaches to justice, they argued, were much better suited to restore adequate levels of harmony, remedy anti-social behavior, and decrease the risk of ongoing feuds within and across communities. Especially in rural areas, this was seen as a prerequisite for peaceful cohabitation and cooperation.

The fact that these voices were entirely ignored in the Guinean judicial reform process, although civil society organizations were tasked with representing the broader Guinean population, leads to the second contradiction that this Working Paper revolved around: the discrepancy between the ideal of an inclusive, participative, democratic reform process on the one hand, and the actual neglect of popular concerns on the other. Here, too, the Guinean case is exemplary for a broader set of problems concerning the role of "civil society" in international policy interventions. In line with Mamdani's (1995b) critique of civil society as an exclusive, rather than an inclusive, policy tool at the hands of foreign donors, CSOs in the Guinean judicial reform process may have reflected the image of local ownership, but in practice never openly questioned either the reform's state bias nor the exclusion of informal justice actors. It was only in the post-project review of BEFORE (Gürler, 2016) that stakeholders, and even state representatives, would explicitly voice these concerns.

This points to a political economy of judicial reform processes that often leaves little room for critical voices. Interactions between aid-dependent governments, precarious civil society organizations, and international donors that are accountable to their domestic taxpayers, are hardly conducive to questioning Western normative biases. Furthermore, as in the case of Guinea, entrenched power inequalities between stakeholders can leave legitimate doubts about policy approaches unexpressed and may thus preclude genuinely inclusive reform processes. Unrealistic timeframes for implementation allocate no time for putting judicial reforms up for discussion, foreclosing the possibility for democratic deliberation that would relate, and potentially adapt, the reform to the given socio-political context.

The Guinean case also demonstrates that, however much socio-political realities are silenced in the reform process, they remain powerful and routinely overrule the reform efforts levelled at them. In turn, for judicial sector reform processes to leave a mark in social contexts of legal pluralism and in political contexts of delegitimized statehood, policy makers cannot afford to work around them. In the following, we provide a number of policy recommendations that may guide future reflection and practice in this regard.

First and foremost, if the principle of local ownership is to be taken seriously, reform programs must be adapted to the context, and not the other way around. Instead of guiding local stakeholders down a preconceived reform path, local realities and actors have to be allowed to shape it. As the Guinean case has shown, there is little chance of success for externally driven change. Consequently, and secondly, local realities need to be understood to find appropriate entry points and reform objectives that local stakeholders can agree on. Time spent building a keen understanding of the wider reform context and the social and political landscape is time well spent. To develop such a keen understanding, data collection should thirdly be undertaken by research teams where domestic researchers are strongly represented. Local knowledges and methodologies as well as anthropological expertise should be employed to identify relevant questions from multiple perspectives, across class and urban-rural divides, as well as gender, generational, and regional differences. Such joint assessments are likely to promote transparency, reliability, legitimacy and trust between stakeholders. Fourth, in a context of legal pluralism, judicial reforms should aim at linking formal and informal legal systems to benefit the entire population. Informal mechanisms should not be

sidelined in favor of exclusively reforming the formal justice system, and policy makers need to develop integrative mechanisms and forums to discuss and enhance the complementarity of formal and informal systems. Fifth, and finally, any judicial reform process builds on the idea of a gradual and incremental promotion of change. This requires political deliberation and thus an enormous investment of energy and time. Current timeframes, dominated by international donors' budget allocation, tend to be highly unrealistic and must be thoroughly re-examined. For genuinely democratic justice reforms, a long-term and open-ended process is indispensable.

Bibliography

ABA (2012) Access to Justice Assessment for Guinea. Washington: American Bar Association.

African Development Bank (2012) Guinea Country Strategy Paper 2012-2016. Conakry: African Development Bank. Available at: https://www.afdb.org/en/documents/document/2012-2016-guinea-country-strategy-paper-26339/ (Accessed: 17 August 2017).

Arieff, A. (2009) 'Still standing: neighbourhood wars and political stability in Guinea', The Journal of Modern African Studies, 47(03), pp. 331–348. doi: 10.1017/S0022278X09004108.

Arieff, A. and Cook, N. (2009) Guinea's 2008 Military Coup and Relations with the United States. Report. Washington, D.C.: Congressional Research Service. Available at: https://digital.library.unt.edu/ark:/67531/metadc627045/ (Accessed: 18 August 2017).

Arthur, P. and Yakinthou, C. (2018) Transitional Justice, International Assistance, and Civil Society: Missed Connections. Cambridge, United Kingdom ; New York, NY: Cambridge University Press.

Bangoura, D. (2009) 'La très problématique candidature du capitaine Moussa Dadis Camara', www.kylediallo.info, October. Available at: http://kylediallo.over-blog.com/article-la-tres-problematique-candidature-du-capitaine-moussa-dadis-camara-39108844.html (Accessed: 25 August 2017).

Barnes, B. (1988) The Nature of Power, Cambridge, Polity Press.

Bayart, J.-F. (1986) 'Civil society in Africa', in Chabal, P. (ed.) Political domination in Africa: reflections on the limits of power. Cambridge: Cambridge University Press, pp. 109–125.

Bayart, J.-F. (1993) The state in Africa : the politics of the belly. London: Longman.

BEFORE (2011) Project document: UNDEF project no. UDF-GUI-10-355 / Judicial Reform: Empowering Magistrate-Civil Society Collaboration for Guinea's New Democratic Future. New York and Bern.

Bierschenk, T. (2010) States at Work in West Africa: Sedimentation, Fragmentation and Normative Double-Binds. 113. Johannes Gutenberg-Universität Mainz: Department of Anthropology and African Studies.

Bierschenk, T. and Olivier de Sardan, J.-P. (2014) States at work : dynamics of African bureaucracies. Boston Boston : Brill (Africa-Europe Group for Interdisciplinary Studies).

Branch, A. and Mampilly, Z. (2015) Africa Uprising: Popular Protest and Political Change. London: Zed Books.

Bratton, M. (1994) 'Civil society and political transition in Africa', IDR Reports, 11(6), pp. 1–21.

Camara, M. S. (2014) Political history of Guinea since World War Two. New York: Peter Lang.

Camara, M. S. (2016) 'Political Crisis and ECOWAS-Mediated Transition in Guinea', Stichproben. Wiener Zeitschrift für kritische Afrikastudien. (Guinea. One Revolution at a Time), 16(30), pp. 9–36.

Caparini, M. (2010) Civil Society and the Future of Security Sector Reform. In: SEDRA, M. (ed.) The Future of Security Sector Reform. Waterloo, Canada: The Centre for International Governance Innovation (CIGI).

Chatterjee, P. (2006) The Politics of the Governed: Reflections on Popular Politics in Most of the World. Leonard Hastings Schoff Lectures edition. Columbia University Press.

Clapham, C. (2003) Foreword by Christopher Clapham. In: GRANT, J. A. & SÖDERBAUM, F. (eds.) The New Regionalism in Africa. Aldershot: Ashgate Publishing Limited.

Cleaver, F. (2001) Institutions, Agency and the Limitations of Participatory Approaches to Development. In: COOKE, B. & KOTHARI, U. (eds.) Participation: The New Tyranny? London: Zed Books.

COGINTA (2014) Diagnostic local de sécurité 2014 en Guinée. Geneva and Conakry: NBmedia and Imprimerie Centrale. Available at: http://www.coginta.org/uploads/documents/8f53340bc6bda5e6a44a9f5697da31f0ed0e9021.pdf.

Comaroff, J. L. and Comaroff, J. (eds) (1999) Civil society and the political imagination in Africa. Chicago: University of Chicago Press.

Corradi, G. (2015) 'Justice Sector Aid in Legally Plural Africa', in Brems, E., Corradi, G., and Schotsmans, M. (eds) International actors and traditional justice in Sub-Saharan Africa : policies and interventions in transitional justice and justice sector aid. Cambridge: Intersentia, pp. 121–142.

Dakolias, M. (2000) 'Legal and judicial development: the role of civil society in the reform process', Fordham International Law Journal, 24(Symposium), pp. S26-55.

DECAF (2011) Gender and Security Sector Reform: Examples from the Ground. Geneva.

Delamou, A. (2007) Les 32 jours de grève générale en Guinée : Le film des événements. Paris: L'Harmattan.

DECAF (2011) Gender and Security Sector Reform: Examples from the Ground. Geneva.

DFID (2002) Understanding and Supporting Security Sector Reform. London: Department for International Development.

DFID (2005) Why we need to work more effectively in fragile states. London: Department for International Development.

Dhillon, L. & Vaca, S. (2018) Refining Theories of Change. Journal of MultiDisciplinary Evaluation, Vol. 14, 64-87.

Duffield, M. R. and Hewitt, V. M. (2013) Empire, development & colonialism : the past in the present. Woodbridge, Suffolk ; Rochester, NY: James Currey.

Easterly, W. (2006) The white man's burden : why the west's efforts to aid the rest have done so much ill and so little good. New York: Penguin Press.

Easterly, W. (2014) The Tyranny of Experts: Economists, Dictators, and the Forgotten Rights of the Poor. New York: Basic Books.

Edmunds, T. (2002) Security Sector Reform: Concepts and Implementation. DCAF Working Paper No. 86. Geneva: Geneva Centre for the Democratic Control of Armed Forces (DCAF).

Ekeh, P. P. (1975) 'Colonialism and the Two Publics in Africa: A Theoretical Statement', Comparative Studies in Society and History, 17(1), pp. 91–112.

Ferguson, J. (1994) The anti-politics machine : 'development,' depoliticization, and bureaucratic power in Lesotho. Minneapolis: University of Minnesota Press.

FIDH and RFI (eds) (2018) Mémoire collective : une histoire plurielle des violences politiques en Guinée. Paris: Fédération internationale des ligues des droits de l'homme. Available at: https://www.memoire-collective-guinee.org/ (Accessed: 30 March 2019).

Gabay, C. and Death, C. (eds) (2014) Critical perspectives on African politics : liberal interventions, state-building and civil society. London: Routledge (Routledge studies in African politics and international relations, 5).

Greig, A., Hulme, D. & Turner, M. (2007) Challenging Global Inequality: Development Theory and Practice in the 21st Century, Basingstoke, Palgrave Macmillan.

Gürler, S. Y. (2016) Judicial Reform: Empowering magistrate-civil society collaboration for Guinea's new democratic future. A post-project review and impact analysis. Bern: swisspeace.

Harbeson, J. W., Rothchild, D. S. and Chazan, N. (eds) (1994) Civil Society and the State in Africa. Boulder: Lynne Rienner Publishers.

Højbjerg, C. K. et al. (2012) National, ethnic, and creole identities in contemporary Upper Guinea Coast societies. Working paper 135. Halle/Saale: Max Planck Institute for Social Anthropology. Available at: http://www.eth.mpg.de/cms/en/publications/working_papers/wp0135.html (Accessed: 25 January 2019).

Howlett-Bolton, A. (2010) ‘Justice Sector Reform’, in Albrecht, P. and Jackson, P. (eds) Security sector reform in Sierra Leone 1997-2007 : views from the front line. Berlin: Lit, pp. 93–108.

Human Rights Watch (2009) Bloody Monday. The September 28 Massacre and Rapes by Security Forces in Guinea. New York: Human Rights Watch. Available at: https://www.hrw.org/report/2009/12/17/bloody-monday/september-28-massacre-and-rapes-security-forces-guinea (Accessed: 30 January 2016).

International Monetary Fund (2013) Guinea: Poverty Reduction Strategy Paper. 13/191. Washington, D.C.: International Monetary Fund.

Johnson, I. (1997) Redefining the Concept of Governance. Gatineau, Quebec: Canadian International Development Agency (CIDA).

Kasfir, N. (2017) Kingdom, state and civil society in Africa : political and conceptual collisions. Basel: Basler Afrika Bibliographien (Carl Schlettwein lectures).

Lipson, M. (2002) Peacekeeping: Organized Hypocrisy? Paper prepared for the Workshop on Peacekeeping and Politics (October 18). New York: Columbia University.

Makumbe, J. (1998) ‘Is there a civil society in Africa?’, International Affairs 1944-1995, 74(2), pp. 305–317.

Mamdani, M. (1995a) ‘A Critique of the State and Civil Society Paradigm in Africanist Studies’, in Mamdani, M. and Wamba-dia-Wamba, E. (eds) African studies in social movements and democracy. Dakar: Codesria, pp. 602–616.

Mamdani, M. (1995b) ‘Introduction’, in Mamdani, M. and Wamba-dia-Wamba, E. (eds) African studies in social movements and democracy. Dakar: Codesria, pp. 1–34.

Mann, M. (1986) The Sources of Social Power - Volume 1: A history of power from the beginning to A.D. 1760, Cambridge, Cambridge University Press.

Mbembe, A. (1992) ‘Provisional Notes on the Postcolony’, Africa: Journal of the International African Institute, 62(1), pp. 3–37.

McGovern, M. (2017) A Socialist Peace? Chicago: University of Chicago Press. Available at: http://www.press.uchicago.edu/ucp/books/book/chicago/S/bo26176179.html (Accessed: 12 April 2018).

Migdal, J. S. (1988) Strong societies and weak states: state-society relations and state capabilities in the Third World, Guilford, Princeton University Press.

Narten, J. (2009) Dilemmas of promoting 'local ownership'. In: PARIS, R. & SISK, T. D. (eds.) The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations. Oxon: Routledge.

Neumann, M. (2002) The Rule of Law: Politicizing ethics, Burlington, Ashgate Publishing.

OECD-DAC (2005) Security System Reform and Governance. DAC Guidelines and Reference Series. Paris: Organisation for Co-operation and Development - Development Assistance Commitee.

Orvis, S. (2001) ‘Civil Society in Africa or African Civil Society?’, Journal of Asian and African Studies, 36(1), pp. 17–38.

Parsons, T. (1957) Review: The Distribution of Power in American Society. World Politics, Vol. 10, No. 1, 123-143.

Philipps, J. (2011) ‘Sweet talk or Street Riots? Education and Political Action by Youths in Conakry, Guinea’, in Weiland, H., Priwitzer, K., and Philipps, J. (eds) Education in fragile contexts : government practices and political challenges. Freiburg i. Br.: Freiburger Beiträge zur Entwicklung und Politik, pp. 131–165.

Philipps, J. (2013) Ambivalent rage : youth gangs and political protests in Conakry, Guinea. Paris: Éditions L’Harmattan.

Pommerolle, M.-E. (2010) ‘The extraversion of protest: conditions, history and use of the “international” in Africa’, Review of African Political Economy, 37(125), pp. 263–279.

RFI (2018) ‘Manifestants tués en Guinée: l’opposition demande une enquête internationale’, RFI Afrique, 20 March. Available at: http://www.rfi.fr/afrique/20180319-guinee-conakry-manifestations-morts-enquete-cellou-dalein-diallo-commision (Accessed: 30 March 2019).

Risse, T. (ed.) (2011) Governance Without A State: Policies and Politics in Areas of Limited Statehood, New York: Columbia University Press.

Sanchez-Cuenca, I. (2003) Power, Rules, and Compliance. In: MARAVALL, J. M. & PRZEWORSKI, A. (eds.) Democracy and the Rule of Law. Cambridge: Cambridge University Press.

Schatzberg, M. G. (2001) Political Legitimacy in Middle Africa: Father, Family, Food. Bloomington: Indiana University Press.

Sedra, M. (2010) The Future of Security Sector Reform, Waterloo, Ontario, The Centre for International Governance Innovation (CIGI).

Shearing, C. (2006) Reflections on the refusal to acknowledge private governments. In: Wood, J. & Dupont, B. (eds.) Democracy, Society and the Governance of Security. Cambridge: Cambridge University Press.

Simone, A. (2003) ‘Resource of Intersection: Remaking Social Collaboration in Urban Africa’, Canadian Journal of African Studies, 37(2/3), pp. 513–538.

Simone, A. (2008) ‘Emergency Democracy and the “Governing Composite”””’, Social Text, 26(2), pp. 13–33.

Sorj, B. (2005) ‘Civil Societies North-South Relations: NGOs and Dependency’, Edelstein Center for Social Research Working Paper, (1).

Tönnies, F. (1935) Gemeinschaft und Gesellschaft : Grundbegriffe der reinen Soziologie. 8., verb. Aufl. Leipzig: Buske.

Transparency International (2007) Etude Pays Guinée 2007. Berlin: Transparency International.

TRANSTEC (2014) Evaluation Report: UNDEF project no. UDF-GUI-10-355 / Judicial Reform: Empowering Magistrate-Civil Society Collaboration for Guinea's New Democratic Future. Belgium: TRANSTEC.

UN (2004) The rule of law and transitional justice in conflict and post-conflict societies: Report of the Secretary-General S/2004/616. United Nations Security Council.

UNDP (2004) Access to Justice: Practice Note. New York: United Nations Development Programme.

UNDP (2008) Strengthening the Rule of Law in Conflict- and Post- Conflict Situations: A Global UNDP Programme for Justice and Security 2008-2011. United Nations Development Programme.

UNDP (2010) A Guide to UNDP Democratic Governance. United Nations Development Programme.

UNDP (2010) Integrating Legal Empowerment of the Poor in UNDP’s Work - A Guidance Note. New York: United Nations Development Programme.

Valters, C. (2014) Theories of Change in International Development: Communication, Learning, or Accountability? JSRP Paper 17. London: The Justice and Security Research Programme (JSRP), LSE.

World Bank (2002) Initiatives in Legaland Judicial Reform. Washington: The International Bank for Reconstructionand Development / The World Bank.

World Bank (2010) Worldwide Governance Indicators [Online]. The World Bank Group. Available: http://info.worldbank.org/governance/wgi/index.aspx#home [Accessed 08.02.2014].

About the authors and swisspeace

Sibel Gürler is a business economist and political scientist and heads the swisspeace Statehood Program. She holds an MSc in Development Policy, Process and Practice from the University of Reading, UK and did her PhD on security and justice sector reform at the University of Bristol, UK. With a specific focus on Liberia, she looked at the UN-led reforms of the justice and security sectors aimed at long-term stability and analyzed the effects of reform implementation on the local context. Moreover, between 2002 and 2011, Sibel worked with the International Committee of the Red Cross (ICRC) in conflict areas in Africa and the Middle East. Her areas of expertise include post-conflict reconstruction, conflict-sensitive programming, security and justice sector reform (SSR), rule of law, customary law, local governance, traditional authorities and non-state actors, International Humanitarian Law and Human Rights Law.

Joschka Philipps is a political sociologist and a senior researcher at swisspeace's Peacebuilding Analysis and Impact Program, as well as a lecturer in sociology and political science at the University of Basel. His PhD, also from the University of Basel, focused on youth gangs, protests, and urban politics in Guinea and Uganda. Joschka is the author of "Ambivalent Rage" (Harmattan 2013) and his work has appeared in the Review of African Political Economy, Africa Spectrum, and the Journal of Youth Studies. He has carried out qualitative and quantitative research in Guinea since 2009, with various long-term ethnographic research stays in Conakry and N'Zérékoré, where he also worked as a university lecturer and a consultant.

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