



Executive summary

Nô obi mindjer ku mininu

Justice practices in the village:

a view over traditional mechanisms of conflict resolution
in the Gabu, Oio and Tombali regions



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Framework of the study

The legal framework of traditional conflict resolution mechanisms in Guinea-Bissau is, in theory, well-defined. However, there is still a big gap between this theoretical framework and the practices that are observed in the different communities. In this context, and as part of a larger programme, UNDP and UNICEF funded by the Peacebuilding Fund, developed a project of “Technical Support to Strengthen the Integration of Traditional Justice in the Stabilization of the Justice Sector in Guinea-Bissau through Peacebuilding”, implemented by Voz di Paz and Interpeace. Much of this project has been a participatory research that results in the publication of this report. This study aims to contribute to a discussion around traditional mechanisms of conflict resolution, paying particular attention to conflicts involving women and children.

The research was conducted in a participatory manner through six focus-groups in three regions. In the end, the results were validated through a participatory process. Since this study has been conducted in three of the country’s eight regions, the conclusions presented here are very relevant, but cannot and should not be interpreted as an explanation of the reality of the country as a whole.

Overview

This study report is divided into four main chapters, respectively dedicated to the traditional justice system, the positioning of women and issues of importance to women, the treatment of children in traditional justice, and finally the perception of the consulted population

regarding the traditional and the formal justice systems.

Traditional justice in Guinea-Bissau is an ensemble of conflict management practices, centred on dialogue and reconciliation. These practices date back to a distant past and are deep-rooted in the customs of the different communities in the country. The actors of traditional justice are people who, due to their historical and/or religious importance, have great influence and legitimacy in the community: they are the village chiefs, the elders, the committees established after independence, and the imams and priests.

The application of traditional justice is versatile and depends on the attitude of the actor who applies it. However, this research has found some common elements in terms of mediation and conflict resolution procedures. When a conflict comes to the instances of traditional justice, the first step is normally to listen to conflicting parties, with the presence of witnesses. Opinions, especially from elders and imams, and then from decision-makers (village chief or *régulo*) are then taken into account. Sometimes the conflict can be resolved without giving a sentence, but in cases where a sentence is given – punitive or not – the culprit is identified (even if not always in front of both parties). If people are not satisfied with the judgment, the problem may eventually be brought into the formal justice system. At the end of the process, there is normally a conciliation and appeasement ritual.

Regarding the treatment of women, there is a notion that was often raised: women have a subordinate position vis-à-vis men – and especially their husbands – and must “*sufri*” (resign themselves). This is due to the importance ascribed to maintaining the marriage and family, and the role of men as heads of the family. In the opinion of many of the women consulted, their problems are not solved impartially and fairly by traditional justice mechanisms. The issues of marriage, separation and inheritance are highlighted as the disputes for which it is more difficult to find a satisfactory solution. As concerns children – a category generally understood in society as preceding puberty –, their position is subordinate to older people, and they are very rarely given the chance to speak during these proceedings. A central matter for children is the issue of forced marriage.

Finally, the research showed that women, like men, have no clear preference either for formal justice or traditional justice, criticizing the functioning of both systems. Their use of one or the other system is conditioned by many factors, such as, for example, their past experiences with each system, the possibilities of access to formal justice, the gravity of the crime or conflict, or social pressure, among others. In general, traditional justice serves as the first instance of resolution, and recourse to formal justice is seen as a secondary choice or an option of last resort.

In terms of criticism, study participants emphasized the lack of impartiality within the

traditional justice system, the loss of legitimacy and authority of traditional leaders and committees, as well as the persistence of corruption in the formal justice system and its emergence in the traditional justice system. However, they also praised the coercive power of formal justice, and recognized and valued the contribution of traditional justice to social cohesion.

Main conclusions

The analysis of the elements identified through the six focus-groups made it possible to draw some conclusions. Indeed, there are many views and ideas that are shared by the different communities consulted. From these common elements, the following six key messages were formulated, which were validated during a participatory restitution session:



1. **Traditional justice is partial and this bias preserves the subjugation of women:** the traditional mechanisms of conflict resolution value and reinforce the subordination of women to their husbands, due to the importance accorded to marriage; women, as well as children, are encouraged to resign themselves and accept decisions, even if perceived as unfair.



2. **Women and children are seen in a community perspective and not as isolated individuals:** the main concern of traditional leaders is the unity and the harmony of the community; individual rights cannot supersede the needs of the community.



3. **Women, like men, criticise both sectors of justice (formal and traditional):** the choice between the two practices of justice is not easy or well defined, and changes according to the nature and the severity of the conflict, among other factors.



4. **Divorce and inheritance, two important issues for women, are controversial and sensitive questions in traditional justice:** marriage is seen as essential and divorce is stigmatized and rejected; when it comes to inheritance, women contribute to the construction of family property but are not entitled to their fair share in the division of goods.

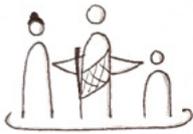


5. **The reconciling role of traditional justice is recognized by both men and women:** traditional justice plays a very important role in achieving social peace and harmony among community members; this role is recognized and valued by the population.



6. **Women's participation in traditional justice bodies is weak and without decision-making power:** the role of women in society is changing, but their role in decision-making bodies remains secondary; older women - considered wiser - participate more often; however, their participation does not lead to changes in the treatment of women in traditional justice.

Recommendations made during the participatory validation session



1.- Strengthen the participation of women and youth in the process and decision-making in traditional justice.

Traditional justice bodies should begin to include women and youth in councils that mediate conflicts in communities, or at least take their views into consideration. This can be accomplished through informal awareness-raising conversations by traditional justice actors and other mediators or influential people. On the other hand, *régulos*, village chiefs and committee authorities should start nominating women to serve on village councils and committees and ensure greater openness to women's leadership in the communities (being accepted as village chiefs, for example). This is a commitment already made by the traditional leaders present at the validation session.



2.- Make the process of men-women conflict resolution more inclusive in traditional justice.

In this context, recommendations have emerged: to allow both men and women to be present and to be listened to equally; make important decisions in groups that include women, men and young people; restore the old model of committee formation where there were at least two women per five board members; and to recognise and identify the culprits, either privately or publicly. All of these recommendations can be applied by the actors of the traditional justice system itself, through the use of their influence and power of decision. It is also relevant to sensitize the men and women of the community so that these inclusive practices do not give rise to resistance.



3.- Strengthen the legitimacy and impartiality of traditional justice, contributing to a better resolution of conflicts involving women and children.

The *régulos*, village chiefs and committees should work to promote transparent decision-making processes. In order to do that, they can

influence their peers to view corruption and bias/partiality as harmful attitudes that can undermine the harmony of the community - which they want to ensure. In the same sense, it may be relevant to train and empower traditional justice actors. Finally, the choice of committee members should be made according to their conflict management and mediation capabilities, and not according to other considerations.



4.- Improve respect for the rights of women and children in traditional justice, especially concerning matters of divorce, inheritance and sharing of goods

Traditional justice actors, civil society organizations and Access to Justice Centers (CAJ), among others, should raise awareness regarding the rights of women and children and the importance of respecting them. This would imply an adaptation of the individual rights perspective to the community contexts. This goal could be achieved through the construction of a social norm that guarantees early on the rights of

women in terms of inheritance and sharing of the goods they help to build. To promote the respect for women's and children's rights, it's also important that the State strengthens its support to the victims, families, and institutions working on traditional justice. In this context, it is also important to sensitize and train women so that they can advocate for the application of these norms in the traditional justice system.

Recommendations from the team



1. Working at the family and community level: Organizations and institutions working with the traditional justice system on conflict issues involving women and children should be aware that they are not directly seen as individual persons but first as part of a family, that is represented by its chief - usually a man. Any action to be taken on behalf of women or children should therefore include the family and the community and take a sensitive approach to strengthening social cohesion.



2. Respect and not antagonize traditional justice: Organizations working to promote human and women's rights should not antagonize traditional justice practices. Some of the people

consulted in this study underlined that encouraging people to resort directly to formal justice can create conflict within the community and, at the same time, resistances to the human and women's rights work among the population. In order to prevent these unwanted outcomes, it is recommended that the organizations working in this sector show respect for the traditional justice system, valuing its mechanisms and involving its actors, avoiding presenting the formal justice system as the only possible option.



3. Quantify the participation of women and youth in traditional justice: An insufficient level of quantitative data regarding the participation and involvement of women and children in the traditional justice system has been noted. However, to understand the current state of affairs, and to monitor possible changes, there needs to be a systematic quantitative data collection that allows to illustrate the situation and its evolution. Organisations and institutions interested in these questions should, thus, make efforts to quantify and monitor the situation of women and children in the traditional justice system in Guinea-Bissau.



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