



HiiL POLICY BRIEF

# Justice Is Infrastructure: The Overlooked Foundation of Stability and Economic Growth

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## Summary

Across Africa, and especially in the Sahel and parts of Central Africa, a vicious circle is tightening: weak justice systems fuel instability, instability suppresses economic activity, and economic decline further erodes justice institutions. Each step reinforces the next, trapping societies in a state of self-perpetuating fragility.

This loop is no longer theoretical. Since 2020, coups and the expansion of violent extremist organisations (VEOs) in the region have accelerated, alongside deteriorating rule of law and shrinking economic opportunity. Yet while large-scale investment by businesses has stalled, small and medium-sized enterprises (SMEs) remain embedded in local economies. The latter are the most exposed to justice failures.

This policy brief, which draws on field observations, comparative case studies, legal needs data and governance data, argues that justice should be treated not only as a legal or human-rights issue, but as core economic and stability infrastructure. Where justice is fast, fair and accessible, SMEs grow, trust in institutions increases and the recruitment space for armed actors shrinks. Where justice fails, grievances compound, informal and violent alternatives fill the vacuum and instability deepens.

The policy window to reverse this trajectory is narrowing, as fragile regions move from a short democratic opening into a prolonged period of instability. Treating justice as infrastructure offers a practical pathway to spark change and break the cycle.

## The Problem: A Vicious Circle of Injustice, Instability and Economic Decline

Recent developments across the Sahel and Central Africa share a common pattern, with weak governance and ineffective justice systems allowing grievances to accumulate to dangerous levels. In many communities, the most immediate source of resentment is not ideological or geopolitical - it is the inability to resolve everyday disputes fairly and quickly. Land conflicts linger unresolved for years, contracts cannot be enforced and predatory practices such as checkpoint extortion or arbitrary fines undermine livelihoods. Businesses, moreover, lack protection under the rule of law and therefore have to operate on an uneven playing field.

These justice failures have direct consequences for stability. VEOs consistently expand in areas where the state is perceived as absent or unjust. Their appeal often rests less on ideology than on offering alternative forms of dispute resolution, predictable enforcement of verdicts, or protection of assets - however coercive those mechanisms may be. UNDP (2023)<sup>1</sup> and Afrobarometer (2025)<sup>2</sup> findings suggest that lived experiences of injustice and state abuse are among the strongest predictors of recruitment into armed groups.

The economic implications are equally profound. Large-scale investment retreats first during instability, but SMEs often do not have the option to withdraw. SMEs account for roughly 90% of firms and up to 80% of employment across sub-Saharan Africa (International Trade Centre 2024<sup>3</sup>, 2024; World Bank 2024<sup>4</sup>). Yet they are

uniquely vulnerable to justice breakdowns. When disputes take years to resolve, contracts collapse, credit dries up and entrepreneurs retreat into survival mode, the small business sector withers. While large firms can absorb legal costs and hedge risk, SMEs rarely have the financial buffers to survive prolonged disputes. Justice failures therefore hollow out the most employment-intensive part of the economy.

## Why It Matters Now: The Closing Stability Window

This cycle matters urgently because instability is already spreading across Africa. A decade of relative democratic progress in parts of the region attracted diversified investment and led to growth rates that exceeded 6% per year in some economies. The recent wave of coups, violence by armed non-state actors and rising insecurity has reversed that trajectory. The Mo Ibrahim Index of African Governance shows erosion in the rule of law across much of the continent, affecting a majority of the population in multiple countries. This has led to declining investor confidence, weakened public trust, accelerating capital flight and sharp reductions in growth (Mo Ibrahim Foundation, 2024). Without intervention, continued deterioration of justice services risks locking fragile states into a self-perpetuating instability trap.

At the same time, demographic pressure is intensifying. Young populations are entering labour markets that cannot absorb them. When justice systems fail to provide fair economic playing fields, young people have even fewer pathways to

1 UNDP (2023). *Journey to Extremism in Africa: Pathways to Recruitment and Disengagement*. Available at: <https://journey-to-extremism.undp.org/en>.

2 Afrobarometer (2025). *Afrobarometer Round 10: Governance, Justice, and the State of Democracy in Africa*. Available at: [www.afrobarometer.org/publications/](http://www.afrobarometer.org/publications/).

3 International Trade Centre (2024). *SME Competitiveness Outlook 2024: Helping SMEs go green*. Available at: <https://intracen.org/publications/sme-competitiveness-outlook-2024>.

4 World Bank (2024). *Small and Medium Enterprise (SME) Finance*. Available at: [www.worldbank.org/en/topic/sme/finance](http://www.worldbank.org/en/topic/sme/finance).

success. If property rights are not protected, payments and contracts are not enforced or recruitment practices are unfair, armed groups can present themselves as providers of order, inclusion or opportunity.

Policy responses, however, remain misaligned. Stabilisation strategies are dominated by short-term security imperatives. Justice reforms are frequently siloed or underfunded. According to data synthesised from the [OECD Development Assistance Committee](#) and the World Bank, international aid for the rule of law and justice often makes up less than 2% of overall aid in fragile contexts.<sup>5</sup> The imbalance is stark: billions invested in security-sector reform versus minimal investment in everyday justice systems. This mismatch between intervention and lived reality leaves the structural drivers of instability intact.

## Justice as Economic and Stability Infrastructure

Justice and the rule of law are often treated as normative ideals, yet their functional role is deeply practical. They determine, for example, whether contracts are honoured, whether property can serve as collateral and whether businesses can trust markets enough to invest. In this sense, justice functions as economic infrastructure - an operating system that underpins commerce and social contracts alike.

Where justice systems work well, the effects ripple outward. Predictable dispute resolution lowers transaction costs and encourages investment. Secure property

rights expand access to credit. Reliable enforcement reduces the need for informal or coercive alternatives. Over time, trust in institutions builds, spurring both domestic investment and foreign capital flows.

Conversely, when justice systems fail, markets fragment. Businesses come to rely on personal networks rather than formal contracts, which limits scalability and innovation. Credit becomes scarce. Capital demands higher risk premiums (World Bank governance research<sup>6</sup>).

This dynamic is especially visible among SMEs. Research by HiiL and OECD shows that unresolved legal disputes lead to lost market share, disrupted supply chains and business closures. Even when firms survive, they divert resources from innovation to risk management. The cumulative effect leads to slower productivity growth and fewer jobs. In fragile contexts, these economic consequences feed directly into political instability, reinforcing the vicious circle that links injustice to insecurity.

## The Justice Gap and its Exploitation

The justice gap in fragile regions will not be closed simply by increasing institutional capacity; it also requires improved accessibility, speed and fairness in everyday interactions with existing justice services. Most justice investments are directed towards creating new laws and building new courthouses in cities, rather than towards enhancing the user-friendliness of justice. Formal courts are often slow, costly or geographically distant. In some regions,

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<sup>5</sup> Synthesized from OECD (2024), *Creditor Reporting System (CRS)*, Purpose Code 15130; and World Bank (2024), *Governance and Institutions Umbrella Program*. The <2% figure represents the average share of sector-allocable ODA dedicated to legal and judicial development in fragile and conflict-affected situations.

<sup>6</sup> This analysis of market fragmentation and the shift to personal networks is based on World Bank (2017), *World Development Report 2017: Governance and the Law*, which identifies the “rule of law” as a critical functional requirement for transitioning from informal, trust-based transactions to scalable, contract-based economic growth.

commercial disputes can take many years to resolve (World Bank monitoring<sup>7</sup>). For small businesses, justice delayed is often justice denied.

This gap creates space for alternative governance models. The most prominent precedent comes from Afghanistan, which had all these features between 2001 and 2021. Long before they regained territorial control, the Taliban systematically exploited justice failures by deploying mobile judges and shadow courts that delivered rapid decisions in rural areas. Their ability to provide swift - if deeply flawed - adjudication became a core source of recruitment.

Similar patterns are now visible in parts of the Sahel. Groups such as Jama'at Nusrat al-Islam wal-Muslimin (JNIM)<sup>8</sup> and Islamic State Greater Sahara (ISGS) have emulated this model<sup>9</sup>, offering rapid mediation of land disputes<sup>10</sup>, predictable taxation mechanisms, and enforcement of commercial agreements. Although they are coercive and often abusive, these systems can appear more predictable than corrupt or inaccessible state alternatives. For communities facing survival choices, predictability often outweighs legality.

Research points to several key recurring drivers of recruitment into VEOs, including personal experiences of injustice, unresolved land disputes, corruption, state abuses and lack of protection for livelihoods (UNDP, 2023). Economic exclusion compounds these grievances. Young traders who are unable to recover debts, herders who lose land due to corrupt rulings, or

entrepreneurs who face repeated extortion may view armed groups less as ideological actors and more as providers of order or opportunity.

## Why SMEs are the Lens that Matters

Justice failures affect all businesses, but their consequences are not evenly distributed. Large firms typically have legal departments, political access and financial reserves to withstand prolonged disputes. SMEs do not.<sup>11</sup> Their survival often depends on cash flow and trust-based transactions, making them acutely sensitive to delayed payments and contract breaches.

When justice systems fail, SMEs are often the first to collapse. A small business owner caught in a payment dispute may have to sell assets to survive. A family firm facing land seizure may close down entirely. These micro-level failures accumulate into macroeconomic fragility - lost jobs, shrinking tax bases and rising informality. Field anecdotes reinforce this pattern. Entrepreneurs in fragile settings frequently report preferring rapid informal arbitration<sup>12</sup> - even when unfair - over formal legal routes that consume time<sup>13</sup> and resources without resolution. The result can be a gradual erosion of trust in formal institutions and a shift toward informal, mostly illegal armed groups that impose coercive governance systems.

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7 According to World Bank (2024), *Business Ready (B-READY)*—which monitors the time and cost to resolve commercial disputes—litigation in fragile contexts can frequently exceed 1,000 days (approximately three to five years). This extreme delay effectively functions as a “denial of justice” for SMEs, as they lack the cash flow to survive such prolonged legal uncertainty.

8 Africa Center for Strategic Studies (2025). *JNIM Attacks on Western Mali Reshape Sahel Conflict*. Spotlight Series. Available at: <https://africacenter.org/spotlight/jnim-attacks-western-mali-reshape-sahel-conflict/>

9 Africa Center for Strategic Studies (2024). *Jihadist Governance in the Sahel*. Spotlight Series. Available at: <https://africacenter.org/spotlight/jihadist-governance-sahel/>

10 International Crisis Group (2019). *Speaking with the “Bad Guys”: Toward Dialogue with Central Mali’s Jihadists*. Available at: [www.crisisgroup.org/africa/sahel/mali/speaking-bad-guys-toward-dialogue-central-malis-jihadists](http://www.crisisgroup.org/africa/sahel/mali/speaking-bad-guys-toward-dialogue-central-malis-jihadists)

11 OECD (2025), “Supporting businesses through better justice systems: A focus on SMEs and entrepreneurship”, *OECD Public Governance Policy Papers*, No. 79, OECD Publishing, Paris, <https://doi.org/10.1787/1791ca66-en>.

12 World Bank (2017). *World Development Report 2017: Governance and the Law*. Available at: [www.worldbank.org/en/publication/wdr2017](http://www.worldbank.org/en/publication/wdr2017)

13 Hiil (2018). *Justice Needs and Satisfaction in Mali 2018*. Available at: [www.hiil.org/research/second-justice-needs-and-satisfaction-in-mali/](http://www.hiil.org/research/second-justice-needs-and-satisfaction-in-mali/)

## Implications for Stability and Growth

Understanding justice as infrastructure changes how instability should be interpreted. Rather than regarding insecurity solely as a military problem with a military solution, it becomes clear that it is driven by unresolved grievances and economic injustices. Stabilisation strategies that overlook these dimensions risk addressing symptoms while leaving root causes intact.

The strategic implications are significant. First, neglecting justice undermines economic policy. Growth strategies built on weak justice foundations struggle to generate inclusive outcomes, particularly for SMEs. This failure creates a significant long-term disincentive for SMEs to formalise - when entrepreneurs see no tangible benefit to joining a formal economy that fails to protect their assets, they are incentivised to continue operating in the shadows. Second, security-heavy approaches may produce short-term containment but fail to build durable legitimacy. Third, fragmented reforms - where justice, security and economic policies operate in silos - miss opportunities for mutually reinforcing gains.

A critical policy shift is required, to decouple justice investment from narrow security objectives while aligning it with long-term governance legitimacy. Justice systems must be designed around people's daily needs - resolving disputes, protecting assets and enabling fair economic participation - rather than primarily serving counter-insurgency logics. This shift does not weaken security; it strengthens it.

There are trade-offs. Justice reform is slower and less visible than physical infrastructure or security investments, making it politically challenging, and it requires coordination across institutions and sustained funding.

However, the cost of neglect is higher: prolonged instability, capital flight and recurring crises. Treating justice as infrastructure reframes the investment as preventive rather than remedial.

This reframing also changes how success should be measured. Traditional metrics focus on institutional capacity - the number of courts built or laws passed. A people-centred approach instead tracks outcomes: dispute resolution time, enforcement rates, user trust and economic impact. Such metrics align justice reform with broader development goals and make its economic value more visible (HiIL Justice Needs surveys).

## Recommendations: Operational Pathways to Treat Justice as Infrastructure

To break the cycle of injustice, instability and economic decline, policymakers and development partners should prioritise people-centered justice as a strategic investment. However, reversing a tendency that has predominated for decades - where the rule of law has functioned primarily as an instrument to discipline society rather than to deliver justice - is a profound challenge. Overcoming this legacy requires more than new laws; it necessitates a gradual and deliberate overhaul of the institutional culture and the way officials and policymakers perceive justice issues. By shifting the focus from social control to an *invisible operating system* for growth, the following pathways offer a framework to treat justice as essential infrastructure.

## 1. FOR GOVERNMENT POLICY MAKERS IN FRAGILE STATES:

- **Apply holistic solutions to counter-insurgency:** Insurgency is not purely a security challenge; it is a combination of many things. The focus should be shifted from one characterised by security-heavy approaches to one that addresses economic challenges and unresolved grievances. A people-centered justice approach can help in understanding the everyday challenges faced by communities. This will create space for responses that are appropriate to each context and contribute to a fair economic playing field.
- **Institutionalise commercial mediation:** Establish specialised, rapid-response mediation centers for land and resource disputes to compete with the speed of insurgents' shadow courts. Defeating an insurgency militarily is important, but it is equally important to provide viable alternatives to the services they have provided to communities.
- **Promote inter-ministerial collaboration:** Consider establishing a "Justice-Economy Taskforce" under the auspices of the ministries of justice, trade and other relevant government agencies to simplify administrative justice and eliminate the corruption that often hurts small businesses..
- **Formalize Mobile Justice Units:** Deploy mobile legal hubs to remote areas to provide accessible, state-backed justice that directly challenges the "shadow justice" models of groups like JNIM and ISGS.
- **Manage Operational Risks:** Recognizing the physical dangers in contested territories, the initial rollout must be carefully phased, prioritizing deep community engagement to ensure local "buy-in" and the safety of both officials and participants.
- **Prevent Institutional Co-option:** To ensure these units do not sacrifice fairness for speed or fall under local predatory influence, all decisions must be published regularly.
- **Strengthen Accountability:** Transparency in decision-making helps build a body of judicial precedence and subjects the units to vital scrutiny by civil society and the media, reinforcing the state's legitimacy as a provider of fair justice
- **Incentivise the "zakat" transition:** For governments to regain legitimacy, they must reform tax and fine systems to match the predictability<sup>14</sup> and perceived fairness of insurgent taxation (zakat) without the associated coercion.

## 2. FOR CIVIL SOCIETY AND MEDIA ORGANISATIONS:

- **Establish community-led monitoring:** To ensure that prioritising quick resolutions does not undermine the fairness of mobile justice units, civil society should facilitate the creation of voluntary community monitoring and reporting mechanisms.
- **Empower media oversight:** Local journalists and media outlets should receive specialised training on the legal standards and operational protocols of mobile justice units, to ensure that public reporting serves as a tool for fairness and institutional accountability.

<sup>14</sup> Kluijver, R. (2025). *Al-Shabab: Why Somalia's militants are winning the legitimacy war*. The New Humanitarian. Available at: [www.thenewhumanitarian.org/analysis/2025/09/25/al-shabab-why-somalia-militants-winning-legitimacy](http://www.thenewhumanitarian.org/analysis/2025/09/25/al-shabab-why-somalia-militants-winning-legitimacy)

### 3. FOR AID DONOR COUNTRIES AND AGENCIES:

- **Correct the funding mismatch:** Rebalance development assistance to move beyond the current 1.5–2% allocated to justice, treating it as a preventive infrastructure investment rather than a residual cost.
- **Develop a “Justice Resilience” fund:** Establish a dedicated insurance or grant mechanism that helps SMEs that are caught in prolonged legal disputes. Just as US Development Financial Corporation or the World Bank’s Multilateral Investment Guarantee Agency guarantee a multinational’s power plant against government breach of contract, this fund would provide litigation-gap grants to SMEs facing justice delays. For example, if a small firm’s inventory is stuck in a three-year court dispute, the fund would provide immediate working capital to prevent the business from collapsing while waiting for a verdict.
- **Fund Justice-Tech Innovation:** Treat digital platforms and case management systems as critical infrastructure for accelerating justice delivery and enabling citizens to track their cases transparently. To ensure that these tools are localized and strictly adhere to each country’s unique judicial rules and procedures, the justice-tech sector should be made eligible for specialized technology innovation grants and blended finance in fragile states.
- **Develop outcome-based metrics:** Developing a different matrix for measuring the success of the justice system requires a shift from recording the number of new buildings or new laws passed to one that instead tracks dispute resolution time, user trust and SME survival rates.
- **Condition security aid on the rule of law:** Ensure that military and police support is matched by investment in the judiciary, to prevent grievances fostered by state abuses that drive VEO recruitment.

### 4. FOR THE BUSINESS SECTOR AND CHAMBERS OF COMMERCE:

- **Use collective bargaining for justice:** Use trade associations to lobby governments for fast-tracked small-claims procedures and affordable dispute-resolution pathways.
- **Build the narrative and political case:** Communicate the economic returns of justice investments using SME-centred evidence and real-world experiences. Framing justice as a growth and stability enabler can mobilise political leadership, private-sector engagement and donor alignment.
- **Adopt sector-led arbitration and mediation standards:** Provide technical and legal assistance to SME chambers and trade unions to develop standardized, transparent internal dispute-resolution procedures. By enabling these associations to mediate contract disputes internally, businesses can achieve faster, industry-specific outcomes, significantly lowering their reliance on congested state courts and ensuring economic continuity.
- **Invest in legal literacy for entrepreneurs:** Partner with donors to provide paralegal services and simplified legal information systems to prevent SME collapse.

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