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Since their country's independence in 1958, Guineans have suffered wide rights violations at the hands of successive dictatorial regimes, particularly in the judicial sector. Police routinely torture men and boys in custody, while others languish for years in cramped cells, where they face hunger, rampant disease, and death. Following the military coup of December 23, 2008, the opportunity exists for the new government to work in partnership with civil society to enact constitutional reform and a complete overhaul of the justice system. This reform must include the creation of at least one appeals court; the revision of laws governing pre-trial detentions; and the hiring of qualified and properly compensated judges. Guinea needs to implement a public-defender system and establish a national judicial database that tracks the status of convicts and criminal cases. Judicial police should be under the control of the justice system; prison staff ought to receive proper training and compensation; and prison conditions must be improved. The international community can assist in these efforts by monitoring human rights abuses and by encouraging local stakeholders to work together in establishing a political system based on the rule of law.



# **Guinea after the Coup: New Opportunities for Judicial Reform**

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*The views expressed in this presentation represent the analysis and opinions of the speaker and do not necessarily reflect those of the National Endowment for Democracy or its staff.*

# Introductory Remarks

- A few words about the *coup d'état* of 23 December 2008:
  - The military junta is illegal.
  - My organization, Mêmes Droits Pour Tous (MDT), condemns the seizing of power by force.
  - We face the political reality that the junta and its leader, Moussa Dadis, are currently in power.
  - Elections are necessary, but cannot be the first step.
  - We must implement a legal framework that will include, among other things, the drafting of a new constitution.
  - The U.S. and the international community must engage in Guinea in order to facilitate the transition to civilian rule.

# Geography and Demographics

- Located in West Africa
- Population: 9.5 million
- Capital: Conakry (1.5 million inhabitants)
- 33 cities, 38 counties, and 4 natural regions
- Strong regional and human diversity



# Presentation Outline

**Part I: Guinea's Justice System**

**Part II: Problems Confronting the Justice System**

**Part III: Recommendations for Reform**

# Part I: Guinea's Justice System

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# Justice System: 1958–1984

- Following independence in October 1958, Guineans expect to have effective administrative and judicial institutions in place. This does not happen.
- Ahmed Sekou Touré, provisional head of state: “[There is] a need to radically modify the colonial structures . . . and adapt them to the needs of our revolution.”
- Sekou Touré abolishes local courts that he considers “instruments of domination set in place by the colonizer.”
- Judges decide disputes according to will of ruling party.

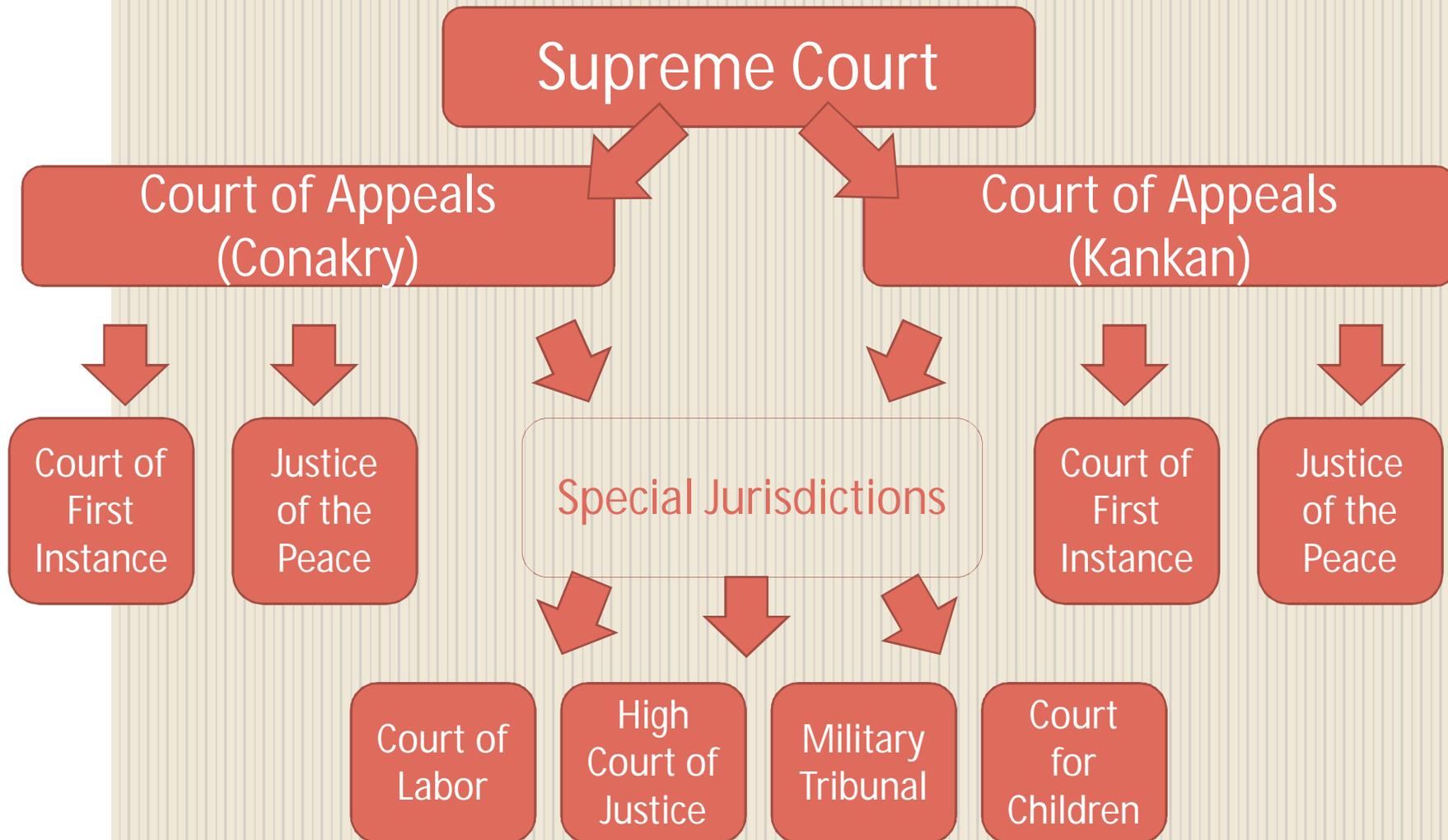
# Justice System: 1984–1990

- April 1984: Sekou Touré dies
- Lansana Conté mounts an immediate *coup d'état*
- Suspends constitution and reorganizes justice system
- Promises an independent judiciary—declares that politics would no longer influence the justice system
- Creates the Conseil Supérieur de la Magistrature
- Creates Justice of the Peace and Supreme Court

# Justice System: 1990–present

- 1990: Guinea adopts new constitution
- Four laws establish the new legal environment:
  - Set foundation for the Supreme Court and the specific tasks to be carried out by it
  - Establish a High Court
  - Create the Superior Council of Judges
  - Implement standards by which judges should act, as well as how judges are to be punished should they break the law

# Structure of the Justice System



# Part II: Problems Confronting the Justice System

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# Problems Confronting the Justice System\*

- Scarcity and old age of judges, clerks, and police officials
- Lack of initial and ongoing training for judges and clerks
- Low levels of training in the Office of the Judicial Police
- No upward mobility
- Severe shortage of basic equipment and legal tools
- Infrastructure and facilities in shambles
- No available lodging for judges—and if available, accommodations are in a state of woeful disrepair

\*These problems are documented in a 2007 study financed by the European Union and conducted by a team of local experts.

# Problems Confronting Justice System (*cont'd*)

- Extremely low levels of funding
- Lack of transportation and vehicles for judges
- Inadequate security for both judges and court houses
- Widespread and frequent interference by political, religious, and military officials in judicial affairs
- Corruption at the heart of judicial decision-making
- Prisons are poorly maintained—many have no roofs, food, or medical supplies
- Prisoners languish in detention for years without charge and without ever seeing a judge

# Les Mêmes Droits Pour Tous (MDT)



Created in 2004 to address the many challenges confronting the justice system in Guinea—in particular the horrible prison conditions—and to advocate for the legal and human rights of detainees and prisoners alike.

# Les Mêmes Droits Pour Tous (MDT)

- **Who We Are**

- 13 staff members
- 2 Field Offices: Conakry and N'zérékoré
- Funded by: NED, Open Society Initiative for West Africa, Embassy of France in Guinea, Fund for Global Human Rights

- **What We Do**

- Advocate for the legal human rights of detainees
- Provide free legal aid for detainees at *Maison Centrale*—Guinea's main prison located in Conakry
- Conduct training sessions in prisons, where detainees learn of their basic rights under law
- Educate prison staff on Guinea's international obligations concerning the treatment of prisoners
- Document instances of torture

# Detainees and Prisoners

Prisoners in  
*Maison Centrale*  
(Conakry)



# Detainees and Prisoners



# Detainees and Prisoners



Before



After

# Detainees and Prisoners



Prisoners released by MDT (2008)  
All together: 105 years of illegal detention

# Challenges Facing MDT

- MDT remains the only NGO in Guinea that advocates for justice reform and the rights of adult prisoners.
- Staff is overstretched.
- Lack of transportation makes it difficult to reach rural areas that are most in need of attention.
- Judicial police continually torture detainees.
- Many lawyers lack the interest to handle criminal cases.
- Government does not offer funding to NGOs—thus, MDT lacks sufficient funds to carry out its mission.

# Part III: Recommendations for Reform

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# Ensure Independence of the Judiciary

*An independent judiciary is essential to the functioning of a democracy.*

- Create a law that reinstates the Superior Council of the Judiciary (CSM)—the main body that sets ethical standards for judges
- Address the influence of the Executive Branch in the functioning of the CSM

# Revise and Update the Penal Code, Code of Procedure, and Civil Code

- Revise laws that govern pre-trial detentions, and put in place judges that deal specifically with the prison system
- Reform the role of the Justice of Peace
- Create two additional Appeals Courts: Labe and N'zérékoré
- Establish regional courts
- Implement a specific judicial organization for Conakry, taking into account its size and demography

# Establish a Policy of Promotion, Continuing Education, and Salary Increases for Judges

- Increase the judicial budget so that judges and judicial staff are less susceptible to bribery and outside influences
- A judge's monthly salary varies between 500,000fg and 800,000fg—the equivalent of US \$100 and \$160
- There are 250 total judges: 1 judge per 40,000 citizens
- Hire more capable judges
  - Not since 1984 has there been a single significant recruitment or hiring of judges.

# Recruit More Lawyers

- Establish a policy of recruiting new lawyers on an annual basis, in collaboration with the Bar Association of Guinea
- Only 200 lawyers work in the country, 6 of whom practice outside of the capital, Conakry
  - Not since 2003 has a lawyer been admitted to the Bar
- Lawyers must serve in rural parts of the country, where legal assistance is severely lacking

# Implement a Functioning Public Defender System

- While it exists in law, a public defender has never actually been appointed in Guinea
- Public defenders must be made available to the citizenry—both for legal advice and for representation
- Public defenders must receive adequate compensation

# Create a National Judicial Database

- Centralize all decisions rendered in penal matters
- Accurately track the status of citizens and ex-convicts
- Maintain judicial archives, so that past cases may be studied and legal precedents may be established

# Properly Train and Equip Judicial Police

- Respect for human rights is severely lacking—almost all cases of torture in Guinea occur at the police level
- Cultivate a culture of responsibility and accountability
- Place the judicial police firmly and unequivocally under control of the justice system

# Assure the Functioning of the High Court

- By law, these courts must meet every four months to hear criminal cases—at present, this does not happen
  - Number of pre-trial detainees is 2–3 times more than the number of actual convicts
- Ensure a professional, impartial, and highly trained staff
- Increase the chances of deterring future crimes

# Improve the Infrastructure of Prisons

- Complete reconstruction and overhaul is needed, not mere renovation
  - NGOs, such as MDT, have both a duty and obligation to advocate for these improvements
- Provide running water, sanitation, and overhead roofs, which are lacking in many of the current facilities
- Abide by international legal conventions ratified by Guinea

# Properly Train and Compensate Prison Staff

- Less susceptibility to bribery
- Respect for human rights and individual responsibility



# Properly Train and Compensate Prison Staff



# Educate Detainees about their Rights

- Conduct seminars where detainees can learn about their legal rights—both inside and outside of the courtroom
- Since there is a severe shortage of lawyers in the country, detainees must be equipped with the knowledge to defend themselves
- Legal empowerment will lead to human empowerment

# Recommendations for the International Community

- Engage constructively with the current leadership in order to facilitate the transition to civilian rule
- Monitor human rights abuses—and in so doing, understand that justice reform should be a priority
- Organize and invest in a political framework that will allow free and fair elections to take place once preliminary steps have been taken
- Work with domestic political parties and civil society organizations to achieve the necessary reform