INNOVATIVE PRACTICE BRIEF

CDA Collaborative Learning Projects

CDA is a US based non-profit organization committed to improving the effectiveness of those who work to provide humanitarian assistance, engage in peace practice, support sustainable development, and conduct corporate operations in a socially responsible manner.

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Collective Action Against Corruption in the Criminal Justice System

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The criminal justice system (CJS) is the ballast to a nation's stability. By enforcing the rule of law, the police, courts and corrections provide citizens with security. However, when the system becomes so riddled with corruption, what was meant to be a protector becomes a predator. In many fragile states, the CJS is just that – another threat to the average citizen and a resource that the wealthy and powerful use to maintain their position. This distortion of the CJS's purpose occurs through the systematic use of extortion/bribery, sexual favors, political interference and favoritism or, typically, some combination of all four.[1] This Innovative Practice Brief describes an experimental effort to combat these forces within the CJS of Lubumbashi, Democratic Republic of the Congo (DRC). It describes the two-year effort, explains the processes used for learning, highlights key results and offers lessons learned, as well as ongoing challenges.

What is the problem?

For many of the programs working on CJS reform in fragile states, corruption is either totally ignored or presumed to be the responsibility of actors specializing in anti-corruption. It is assumed that improvements in the effectiveness of the CJS can proceed without addressing systemic corruption.[2] Yet it is precisely this that **undermines reform outcomes**. The provision of more equipment or training, for instance, into a system whose purpose is to enable personal enrichment, acts like fuel to the process, making the corruption worse and supporting abuse.

Corruption matters because it hurts the individuals and the fragile states in which we work. Corruption in the CJS can involve human rights abuses, torture, rape, exacerbation of gross inequality, and injustice, and it is typically experienced more by those who are most vulnerable, such as women. From our analysis of corruption in the CJS in three countries in Central Africa; DRC, Uganda and Central African Republic (CAR), the difference between corruption in the CJS compared to other government services such as health or education are the **type and scale of the consequences.**[3]

At the individual level, corruption can lead to denial of freedom. This has potentially dire consequences, resulting from the terrible conditions one must endure in confinement. Individuals can also suffer 'double victimhood,' when the victim of a crime suddenly becomes the accused, due to manipulation of the criminal justice process.

There are consequences at the societal level as well. When actors in the CJS are seen as predators not protectors, it diminishes citizens trust in the institutions of the state. This launches a classic vicious cycle of citizen insecurity (see Figure 1). At the same time, political power can be maintained through a distorted state apparatus, in which police intimidate opposition candidates, break up political rallies, and the courts rule against any challenges to power. Finally, the "sale" of government services in all sectors, such as payment for a hospital bed, or demanding sexual favors to secure a new appointment, is difficult to tackle, when the ones who are meant to enforce the law are themselves not following it. There is no appeal to a more trusted authority.

Too often, when corruption is tackled through CJS reform or development actors, these efforts are **ineffective**. In these cases, the problem is generally misunderstood; too heavily influenced by Western notions of the separation of private and public spheres where public interest is thought to be the north star of government officials.[4] This results in programming that responds to the idea that the corrupt are just a few 'bad apples' that can be combatted through basic accountability measures and improved professionalism. This approach is rarely effective.

The Project

The Central Africa Accountable Service Delivery Initiative (CAASDI) was an effort by the State Department's Bureau of International Narcotics and Law Enforcement (INL) and CDA to reduce corruption in the criminal justice process. The CAASDI project arose out of a concern among a few officials in INL that the results from anti-corruption efforts in criminal justice systems were negligible at best, and that most INL anti-corruption programming was too formulaic. There was a concern regarding the absence of deeper problem analysis and the presumption that program approaches were transferable between contexts.

The challenge of CAASDI was to discover whether, by conducting a deeper analysis and seeking more creative and context-specific approaches, it would be possible to combat corruption more effectively in the CJS.[5] Central to the new analysis development was the belief that corruption is a complex (not simple) phenomenon and thus systems thinking could offer important insights.[6] These insights would in turn set up more strategic and thus effective programming pushing beyond classic—and largely failed—models of anti-corruption work.[7] To achieve this, CAASDI was to conduct systems analysis in three countries and implement a pilot project in one. CAASDI and the sister project at The Fletcher School have produced a number of publications over the duration of the project. A full list may be found in Appendix A.

Why systems thinking?

Systems thinking is a way of understanding the world (or any particular problem) as a series of complex interactions among multiple factors that, together, form a constantly shifting whole. Systems analysis first identifies important driving factors (causes), and then concentrates on the *interactions* among those elements, producing a picture of how the larger system functions. The CAASDI project used *causal loop diagrams* as a way to literally map how corruption functions. Figure 1 below presents an example of a causal loop diagram from the analysis of the system of corruption in the CJS in CAR conducted by the project in 2017.
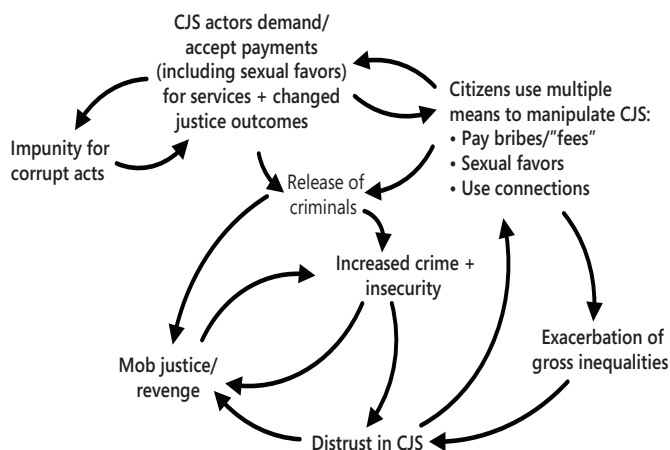

Figure 1: Central Corruption Dynamic in the Criminal Justice System, CAR

The figure above is one portion of a much larger mapping of corruption in the CJS in CAR.[8] Citizens, driven largely by fear of the horrible conditions of incarceration and desperation to gain the release of relatives or other associates, are willing to engage in multiple tactics to manipulate the CJS. They are greeted by CJS actors who are ready to demand payments for minor bureaucratic services or more significant actions to change justice outcomes. Sexual favors are a possible form of "payment" in these exchanges; particularly when the woman has no access to money. While some of those caught in the justice system are innocent, the process can lead to the release of criminals, which causes an increase in crime and insecurity, undermining trust in the CJS. Further any possible deterrent effect of the law is gone as the

law is not applied. Trust is also damaged by the sense that justice can be bought, so the gross inequalities of society are reinforced by the way that the CJS operates. Citizens who distrust the CJS are more likely to take justice in their own hands, leading to mob actions and revenge, which further decreases security. Meanwhile, CJS actors operate in an atmosphere of impunity, as they are rarely held accountable for their corrupt acts.

This form of analysis offers several advantages:

- By showing the connections between factors, it removes the tendency to treat "symptoms" in isolation or to think in a simplistic linear fashion, in which there is one cause and one effect.

- It also makes it quite visually clear that there can be multiple driving factors behind a single issue or problem, demonstrating that multi-faceted responses may be necessary.

- It shows how seemingly unrelated issues can contribute to a system.

- The systems map provides a tool for considering several different options for creating change—and tracing the possible positive and intended negative results of such efforts.

- It is possible to place programming initiatives in the map itself—to emphasize the fact that implementing agencies and their efforts do not exist separate from the system; they affect it and are influenced by it.

Emergent programming & adaptive management

From a programming or intervention point of view, systems thinking supports an emergent and adaptive approach—essentially using the systems analysis to identify possible ways to shift the system in a positive direction. Once programmatic activities are underway, participants (staff, partners, evaluators) then collect feedback to see whether the approach is working or not, how and why/why not. After discussing the feedback, they undertake any needed program adjustments for continuous improvements in results. This approach is particularly appropriate under conditions of uncertainty, which can be said of most non-simple problems.

Corruption in fragile states has all the characteristics of a complex problem; it is highly adaptive, resistant to change, and serves a function. This leads to profound uncertainty about how to root it out, once it has established itself. When the context is also a conflict area, the combination of corruption and ongoing or recent tensions and violence add to the uncertainty and complexity.

Figure 2 below shows this overall emergent and adaptive programming approach. While this looks quite similar to the typical program cycle, it differs in several respects. First, the systems analysis provides the basis for identifying alternative "points of leverage;" elements of the problem susceptible to change or where certain changes are already happening.

Second, the program approach is considered "emergent." That is, while medium-term objectives are clear, the pathway to attain them must unfold through a process of well-informed trial-and-error. As a result, the overall project approach is held rather tentatively, recognizing that agencies are dealing with a problem for which there are no proven solutions under conditions of significant uncertainty. Therefore, the underlying theory of change of the approach is open to ongoing reexamination—and monitoring and evaluation and other feedback processes are designed to test the theory of change on a regular basis, even to the point of requiring a fundamental rethinking of the initial program design.

Third, the process requires not only constant feedback (embedded in a vigorous M&E system), but also regular updating of the systems map, including incorporation of the program intervention itself—and its observed effects—into the system. This placement of the intervention in the map allows for consideration of what it addresses—and fails to address—and its relation to the efforts of other actors on the same or related factors.
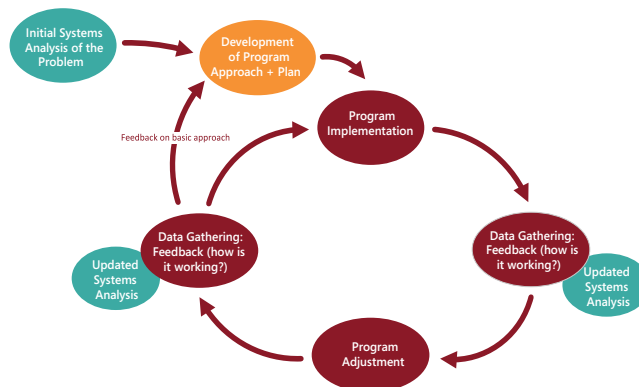

Figure 2: Systems Thinking & Adaptive Management

In Figure 2, the green indicates analytical processes, while the orange represents program design/planning. The red shows the program implementation and adaptation cycle.

Kuleta Haki: the project in Lubumbashi

The project was developed based on the results of our initial systems-based corruption analysis process.[9] This process built from a wide range of literature, such as political economy analysis and social norms theory, and was informed by systems thinking. The analysis in DRC garnered information from over 260 people through interviews and focus groups in Kinshasa and Lubumbashi and produced a causal loop diagram depicting the system of corruption in the CJS, both nationally and in Lubumbashi. Through a discussion on leverage points and bright spots – factors or people that deviate from the standard, usually harmful, way of operating – an overarching program approach was identified based on the most significant bright spot: "islands of integrity." These were individuals identified during the analysis process in the CJS in Lubumbashi whom others repeatedly recognized as acting with integrity. Isolated and by no means able to operate with zero tolerance for corruption, these people were significantly different in how they did their jobs. The basic project approach was to connect the individual islands of integrity in a Network of people committed to combatting corruption in the CJS.

In order to implement the pilot project envisioned in the INL funding, CDA subcontracted with RCN Justice & Démocratie (RCN J&D), a rule of law/access to justice NGO based in Brussels, Belgium, that has a long history of programming in DRC on CJS issues. Working from the basic programming approach, CDA worked with RCN J&D to co-design the project named "*Kuleta Haki*," or "Provide Justice" in the local dialect of Swahili. Many aspects of the project were left open to the participants themselves to determine, such as their decision to focus on corruption in preventive detention and police custody specifically. The project started in August 2015 and ended in August 2017, with some possibility of renewed funding in 2018.

The Strategy

The strategy was based on a classic strength in numbers idea. *If people from within the CJS who act with integrity can establish strong relationships with each other, then they will feel added protection and empowered to act against corruption more openly and often, because they will have support (e.g. emotional, hierarchical, tactical) from those inside the system. And: If those with integrity show that resisting corruption is possible, this will encourage resistance by others who have been participating in corruption but feel it is not right, because they will know resistance is possible and they will not be isolated for doing so. And: If those inside the CJS are connected with islands of integrity working in criminal justice but not employed by the government, then these relationships will provide additional motivation, information and protection, because they are not under the same hierarchy as those working within.*

To reach more people which was part of the medium-term objectives, we believed that strategically growing the size of the Network would increase the confidence of members (as protection and momentum increased) to then influence and/or teach colleagues and bosses also to resist. 'Strategically grow' meant allowing newcomers to observe and participate in relationship-building activities to the extent that the initial members did before them.

Who to include in the Network?

When building the initial group of Network members, the project team decided the key criteria was the personal commitment to combatting corruption in the CJS. Other factors, like maintaining equal representation of people from different religions or political affiliations or ethnic groups, were not deemed important criteria for building a strong network. In fact, this key criterion has been one of the most common reasons Network members give for acting against corruption: their personal conviction.

The initial analysis had identified several people seen as islands of integrity. In addition, throughout year one, the project team in Lubumbashi actively sought out more individuals to explore the possibility of joining. They paid special attention to the reputation of actors, as a significant "risk" factor identified early in the project was the possibility that an invitation might be given to someone who was widely known as a corrupt figure (instantly tarnishing the Network's nascent reputation).

How to structure the Network?

The Network had a Core group of 10 members which were the early joiners and who fulfilled a leadership function, including setting the agenda, decision making between Network meetings, etc. Initial Core Network activities included building the group's internal management systems and overall ownership of the project, such as the development of a Network Terms of Reference and Code of Conduct. At the same time, they discussed already-emerging internal challenges, including lateness to meetings, and defensiveness when discussing personal experiences with corruption. The group also called on one another to contribute solutions to these problems – which further reinforced early feelings of ownership and responsibility for the Core Network's collective attitude and cohesion.

Growing the Network. The Network (over 100 members as of August 2017) has relied on "sub-groups" as a way to organize and manage its growth. Early on, the Network created judicial subgroups to organize groups of actors working in different jurisdictions around Lubumbashi, and to link them to the Core Network. There was also a gender subgroup, initially conceived during the co-design process with RCN J&D. In January 2017, the Network added a police sub-group which included both traffic police and Officiers de Police Judiciaire (OPJ) from one area (Ruashi Kampemba), the investigative police force that works to gather evidence and build cases for magistrates. These sub-groups have been critical for raising new challenges and providing fresh ideas for resisting corruption. With the support of the Core Network, these groups have discussed what corruption means, how best to resist and have started developing their 'activist agenda' to resist corruption consistent with the strategy outlined above.

What activities did we do?

The primary activities that were conducted in the course of the two years included:

- *Inspirational Speakers:* In an effort to build motivation and show what is possible, speakers from outside of Lubumbashi were brought to Network meetings to share experiences resisting corruption as a criminal justice actor.

- *Trainings and Workshops:* Events were held discussing different types of corruption, nonviolent communication, impact of corruption on the individual, community and state, gender, as well as workshops on systems thinking and theories of change. These meetings included discussions on how to resist and how to influence colleagues and supervisors.

- *Participatory theater:* Theatre was used to model the experience of police and justice officials and show different means of responding to corruption that could be used in professional life. These events sought to break down barriers among members, and facilitated sharing of related experiences across sectors within the CJS.

- *Visible markers of membership:* Physical symbols signaling Network membership were provided to members, such as T-shirts, pens and clocks.

- *Listening Clubs:* Network members, in partnership with a local NGO partner (UCOFEM), gathered stories of women held in pretrial detention unjustly to raise awareness of their plight. As part of this they also worked with the family members to teach them the rules of custody and connect them with lawyers.

- *Teambuilding:* Regular, informal teambuilding activities including games, marches, and sports were organized, so that members could build a more personal rather than professional relationship. During this time, they exchanged successful stories of resistance, swapped strategies, and challenged one another in debates about definitions of corruption.

Adapting the collective action strategy over time

An adaptive management approach assumes that the program is going to need to adapt and change as new information is received, the context shifts and tactics are piloted. Several adaptations were made to the project over the two years, a few of the key ones are found here.

Including sexual favors in the project scope. A small but important adaptation made at the end of the pilot was based on the recognition that sexual favors were a rampant and harmful form of corruption within the CJS. Network members felt strongly that this type of corruption needed to be resisted in prin-

ciple. They brainstormed how to do this in practice by updating the systems map to show the ways sexual favors enabled the greater system to flourish.

Many members had been questioning throughout the pilot the extent that gender experience affected one's ability to resist or engage in corruption, both within judicial institutions and outside. To help in responding to this question, a deeper dive into gender and corruption took place in the Spring of 2017. The results contributed to discussion among Network members about sexual favors, and consideration of strategies to engage with, and resist, sexual favors within judicial institutions. At present (December 2017), the larger Network is discussing how to embed a more systematic gender analysis across all activities, as they feel that it is important for all members to take on a role to better understand gender and how to resist sexual favors.

Adding anti-corruption T-shirts. Despite skepticism on the part of the international team members, the Network members insisted on a physical symbol of membership: T-shirts with the slogan "*Justice sans Corruption - C'est possible, Je m'engage*" (Justice without corruption. It's possible, I'm committed). These were produced for all members. The mid-term evaluation showed that physical symbols of commitment mattered to Network members and remained a source of pride among members and prompted interest from others to discuss corruption throughout this pilot.

'Listening clubs' had positive consequences, but weren't aligned to strategy. Listening clubs, organized by a partner media organization in Lubumbashi that promotes women, had positive consequences. For example, the clubs aided the release of some female detainees. However, this activity was not continued as part of Kuleta Haki, because a clear strategy was never developed for how these 'clubs' supported Network members' corruption resistance.

What difference the project has made?

During this short pilot, the project has undeniably helped Network members resist corruption more frequently. The 2016 mid-term evaluation, supported by the monitoring data from throughout the pilot,

showed that members across the Network are taking more concrete actions to resist corruption by:

- Talking to friends/colleagues about the harm caused by corruption,
- Saying no to bribes,
- Waiting rather than immediately acting in response to "orders from above" to see if the demand is repeated, and
- Saying no when a boss asks a case to be passed through.

The external review showed that, at the project's close, some members were also starting to resist political interference, a far more difficult and political sensitive type of corruption.

In support of these results, several clear changes were achieved in regard to individual's knowledge acquisition:

- A clear understanding of what corruption "means" at different levels, (i.e., prosecution, court, police and lawyer levels);
- A repertoire of anti-corruption strategies and approaches;
- An understanding of how gender impacts individual choices when it comes to corruption and resistance; and
- A recognition of the collective harm caused by corruption. Forty percent of the interviewees in the 2016 midterm evaluation spontaneously identified a "*prise de conscience*" or an "awakening" to corruption in their professional lives.

Finally, after the closing of the RCN J&D office, the Network continued to meet and work together. This was not without challenges as will be explained below, but it was inspiring to see the group continue.

How we learned? Monitoring, Evaluation & Reflection

Emergent programming relies on regular injections of information to guide adaptation. To this end, the project had a monthly learning call, implemented regular monitoring process, conducted an internal formative evaluation at the one-year mark, a baseline when the police subgroup was initiated and an externally-conducted, final review two months after the project's formal close.

Programming on sensitive issues like corruption are challenging to monitor effectively, due to social desirability bias, the illegal nature of some of the acts, and the challenges of discerning perceptions from reality, to name just a few of the hurdles that have to be cleared. This project also had to take into account several specific factors in making decisions about monitoring processes.

- *Accurate indicators not realistic:* In order to generate accurate signals of change (i.e. indicators), programming needs to be quite predictable and the change pathways clearly articulated.[10] This was contrary to the emergent approach and adaptive management basis of the design.

- *We wanted information on assumptions:* The project design contained a number of assumptions, not all of which were agreed upon. Therefore, we were looking for a method that could clarify, and where necessary correct, assumptions on how and why change was happening.

- *'Fit' between project participants and approach:* Ownership was a key principle to the project, and we wanted a monitoring approach that would support it. We also wanted an approach that capitalized on justice professional strengths, namely their experience writing and developing arguments.

To add to the contextual challenges and identified needs for monitoring, the team on the ground was new to the principles central to this engagement: theory of change programming, systems thinking, adaptive management and participatory monitoring. Most of the numerous programs that seek to support the justice system in the DRC are based on a "classic" programming approach (e.g. mainly reinforcing jus-

tice professionals' capacities) accompanied by a traditional M&E system (e.g. a logical frameworks with indicators). Team members who had experience with these efforts had not found them sufficiently useful.

We picked Most Significant Change

The team chose the Most Significant Change (MSC) approach, developed by Rick Davies.[11] As a form of participatory monitoring, it captures the changes that are valued by program participants, instead of the changes that we (implementers) feel are important, as found in pre-set indicators.

The project by and large followed a typical MSC process with one main exception: we did not validate the stories. After much discussion, we concluded that it was impossible to validate the veracity of the stories through additional data collection. For instance, a story might be about how a network member refused to take a bribe to acquit someone in their court. To validate this would require seeking out the individual who offered the bribe and assuming they would provide an accurate telling. Not only did we feel this was unlikely, but we were also concerned about the impression it would give the Network 'story tellers' if we started 'validating' them so publicly. Would it seem distrustful? Disrespectful?

Ultimately, we used the power of the group to validate the stories during the feedback session by asking more detailed questions (how did this happen, who was involved, etc.) Our hypothesis was twofold: (1) The justice sector is small, so telling a total fabrication without someone in the room being suspicious was unlikely; and (2) We felt that if participants told the same story twice it was more likely to be "valid."

In addition to MSC, the project team also gathered feedback after each activity using feedback forms and in August 2017 did interviews with the police subgroup to understand their experience. The feedback forms inquired into aspects of the organization, communication etc. and, when appropriate, whether learning objectives had been met.

The formative evaluation used a Utilization Focused approach[12] because the primary users were to be the program team. It looked at the results to date, reviewed the theory of change, and assessed implementation. One aspect of the review of implemen-

tation worthy of mentioning, was that it looked at network strength. The evaluation team used characteristics that had been jointly developed between CDA and RCN J&D in December 2015.

Characteristics of a Successful Network:

- Participants regularly attend and propose ideas, such as activities

- Good circulation of information

- A shared common goal

- A structure that enables cooperation

- A process that catalyzes trust

- Leadership

- Participants respect the rules and procedures

- The structure and membership of the network is best-fit to support their work

What we learned about targeting corruption in the CJS and adaptive programming

Program Strategy & Theory of Change

The team learned a number of important lessons about the theory of change and the effectiveness of the overall program approach. These lessons ranged from the strategic to the tactical, along with some important conceptual points that should not be forgotten.

The Strength in Numbers Approach

- *The main premise of the theory of change proved effective:* The core premise of the theory of change is that "strength in numbers" will enable greater resistance. Anecdotal feedback throughout the process suggested this was true, but the formative evaluation was not able to draw a conclusion one way or another. During the final review, however, the Network reported that collective action was critical. No member can now imagine resisting on their own.

- *Protection is more than an inquiry, it needs to be a strategy:* The team regularly inquired about the members' sense of safety and the risk of participation, both informally and through the formative evaluation. The responses during the two years of programming were equally consistent: members reported that they were not at risk. However, the final review flagged that this had changed, and members were newly conscious of the potential threat of resistance.

There are several possible reasons behind this shift. First, members' resistance had broadened to include addressing political interference, which the Network had always reported to be a more dangerous undertaking. Second, the closure of the RCN J&D office left the Network without the protection of an international NGO. Finally, the political context had gotten increasingly volatile. The lesson is that, regardless of the answers received to inquiries regarding risks and threats, the project should have devised a response strategy, complete with who is responsible and communications expectations in case the situation changed.

- *Resistance comes at a personal cost:* Disruption of the system of corruption can be done, but there is a personal cost to those who make this choice that needs to be recognized. Network members experienced malicious mockery from both colleagues and superiors in response to their anti-corruption stance. Strategies to process and respond to these dynamics could have been factored into the programming at an earlier junction, rather than in reaction to the experience.

- *Learning to resist corruption is like learning a new language:* All forms of corruption in the CJS – including bribery, sexual favors, political interference and favoritism – are considered common, accepted and not noteworthy—that is, completely normal practices. Because they are so "habitual" those who want to resist need time to reflect, unlearn old practices, learn new ones and then gain confidence. This lesson has implications for the time needed to generate behavior change, even amongst those who are committed to the idea, as well as for setting expectations about how change happens. It is not simply a decision to stop.

Project Tactics

In terms of tactics that were used to catalyze specific attitudinal or knowledge changes, here are a select set of lessons:

- *Outside speakers.* Speakers from outside of Lubumbashi, who had experience resisting corruption as criminal justice actors, were an effective means of inspiration. They generated a sense of hope and possibility within the Network during the first year.

- *Participatory Theater.* CJS actors from different branches (judicial, police) play-acted how they would resist types of corruption in different scenarios. Acting humanized members, through visual depiction of challenges and successes. This seems particularly important for police members, who at times feel they have a challenging road to build relationships with other members given their reputation to many citizens as inherently corrupt.

- *Creating visibility.* Network T-shirts with the slogan ["*Justice Without Corruption - It's possible. I'm committed*"] acted as catalysts of conversations between Network members, members of the public and CJS colleagues. The act of wearing a T-shirt that spoke of anti-corruption was a statement that people noticed. People would start a conversation with the Network member wearing the shirt and ask about the slogan and want to know 'how' this is possible. The external review did highlight a possible caveat to the success of this tactic. Despite the Network strongly advocating for the T-shirts in the beginning, it appears that in the new context of heightened tension, wearing them makes members feel more personally at risk.

- *Professional pride is not a strong motivator.* The idea of building on the professional pride of criminal justice actors did not gain traction with the group. Discussions about how to follow the rules, professional independence and honor and how to do each role with integrity did not prove to be galvanizing conversations for the members.

Challenges: Strategy & Theory of Change

- *Moving from islands of integrity as individuals to streams of integrity.* In order to truly alter the system of corruption, logically, it would be necessary to grow the Network. Systems thinking would suggest that creating a significant shift in the system is not purely about numbers in the Network. What this means, in precise terms, for program strategy is difficult to determine. It could involve greater numbers of people engaged, gaining support from the right influencers, involved people from the right level(s)—or some combination of these elements. A successful effort to take the project to significant scale could also involve connecting islands of resistance throughout the criminal justice process, from police to courts to corrections.

- *Addressing monetary corruption vs. political interference.* During the bulk of the implementation period, the Network expressed comfort tackling monetary corruption (i.e. bribery). They explained that this was not political and therefore not dangerous. However, some of the most egregious abuses arise from political interference, which was seen as too sensitive and deferred to a later time. This changed somewhat towards the end of the program where acts of great courage took place to resist political interference from Kinshasa. For an implementing actor this raises a number of questions:

➜ How to accept the short-term wins in resisting monetary corruption, while knowing that the larger offenses continue unabated?

➜ How can or should a project ethically transition into action against political interference, if it is far more dangerous?

➜ Is it possible to understand 'success' in fighting monetary and political corruption as mutually exclusive, particularly from the perspective of citizen security?

• *Bribes for need vs. greed.* There is a difference between demanding bribes for need and demanding them for greed. In the case of lower ranking police officers in Lubumbashi, they are often making demands out of need. In November 2016, for instance, the OPJ (Officier de Police Judiciare) had not been paid for six – eight months. How does one ethically advocate that this group stop demanding payments from citizens for services that should be free, when the government is not fulfilling its responsibility for paying their wages? One way the project handled this is to make a distinction between demanding bribes and accepting offers of payment. The thinking being that if we could reduce the demand that was a partial contribution.

Building the Network

Membership Issues

A number of lessons were learned about membership; the importance of including powerful CJS actors, the impact of hierarchy and understanding the implications of an invitation to join.

• *Including powerful CJS actors.* The Network engaged criminal justice actors from inside the government as well as those external to it, such as civil society justice advocates, and university professors. The inclusion of those from inside the CJS was an important factor in the success of the Network. Individuals who wield power, such as magistrates and other high-level officials are central to stopping patterns of corrupt behavior in the CJS.

• *Effects of hierarchy.* Due to the hierarchical nature of the CJS, the position of one's direct supervisor vis-à-vis corruption determined the degree of risk experienced by an individual who had opted to join the Network and resist corruption. For those working under individuals in the judiciary or police who were complicit in the system (and therefore not likely to be a participating Network member), they typically faced professional and personal sanctions in response to their resistance. Conversely, where a boss was vocal about their support of anti-corruption, the Network member was not just supported, but often held up as an example.

The team had assumed that the *extremely* hierarchical nature of the police force would make police officers more reticent to act, due to fear of the consequences. The final review reported the contrary: the police members were highly motivated to resist, because they are angry at the behavior of their superiors in the hierarchy.

• *Implications of joining: pressures from multiple sources.* It is important to understand that asking people to join the Network has implications that reach far beyond them as an individual. Those who choose to resist corruption will experience pressure from all sides, including from their family members (who would gain from the additional resources provided through accepting bribes). Therefore, asking people to join the Network is not as simple as asking 'Do you want to be in the right, or not?'

Building Social Capital and Group Cohesion

Building a Network based on real relationships with social cohesion is critical to the core strategy: strength in numbers. The process of supporting this group also generated a number of important lessons:

- *The role of informal activities.* Informal activities (as one member put it, "where you take off your robe") such as meals, going for weekend anti-corruption marches or engaging in sports/fun games contributed to sense of equality and unity within the group.

- *Frequency of meetings.* Frequent meetings are best, despite this being a challenge to organize due to the time demands of the professional lives of members. When there is a time lag between meetings, doubts and rumors spring up about loyalty of individuals, as well as feelings of exclusion by others.

Sustainability

- *Sustainability needs to be about maintaining the Network, not just the change efforts.* Most of the discussion regarding sustainability focused on how the group would continue to work against corruption in the CJS, rather than how to maintain the Network itself. The final review process showed clearly that members needed to have devoted more energy to managing themselves as a network, so they could continue to function independently. Practical issues such as communication processes and role descriptions needed clarity.

- *Evolution of the project team's role.* A corollary to this lesson is that the project team's role needed to evolve from the prime motivator and organizer to more of an advisor role, allowing the Network to take on more internal management responsibilities. In the first year of the project, it was vital for the team to take on these functions—and this is a partial explanation of the project's success to date. Yet the team and Network needed to work together more intentionality to evolve this role, looking forward to an independent Network. In fact, an "extraction" plan for both RCN J&D and CDA should have been incorporated into the initial project design, at least as a tentative idea for departure.

Challenges: Building the Network

- *Internal Network Accountability.* Network members take a pledge to resist corruption, but in this context, cannot always comply. The reaction to this issue has evolved as the project has progressed. In the first 18 months or so, it created tensions among members. At that time, some members expressed difficulty in talking openly about these tensions – and disappointment in members who were observed or believed to be engaging in corrupt acts. Members found it difficult to hold each other to account to the Code of Conduct. As the project support came to a close, the group was working on developing a mutual problem-solving approach. One that recognized it is extremely unrealistic to expect anyone – CJS actor or other - to avoid corruption all the time. The idea is to denounce the practices of corruption, not the people involved—and to search, together, for ways to resist in a range of real situations. By the external review, expectations had shifted, and an understanding of the dilemma was more central to the discussion on accountability.

- *Understanding the differing layers of success:* The vast majority of reflection and monitoring focused on determining if corruption was being resisted; rather than acknowledging the achievement and maintenance of a united, functioning group of actors to fight corruption. Generating a sense of cohesion amongst members of the CJS was not a straightforward task, because the CJS is a strictly hierarchical set of institutions that does not encourage members to speak across levels and build relationships. Our initial corruption analysis showed that the context has a prevailing mental model of 'fend for yourself', which is contrary to the solidarity required in a group dynamic. The existence of a Network needed to have been understood more as an achievement and the membership acknowledged for their contribution. The challenge lies in acknowledging this result while simultaneously keeping attention on fighting corruption.

A related challenge is ensuring everyone involved understands the difference between stopping individual corrupt transactions and changing the patterns of behavior that make up systemic corruption.

This larger view is an important project objective, along with building group cohesion, but most of the attention is focused on strategies for combatting individual transactions.

The final challenge to raise in understanding the differing layers of success is that tackling corruption alone does not automatically equate to better CJS outcomes. There are so many other factors (e.g. skills deficit, inadequate infrastructure) that are often the lingering effects of corruption, but can keep the CJS underperforming.

- *Contagion is slow and difficult:* Network members worked very hard to influence peers and colleagues who were not part of *Kuleta Haki*. Members reported positive reactions to these overtures in late 2016, but not yet a readiness to adopt new practices among these individuals. Bosses and colleagues within the upper-ranks of judicial institutions are still actively sought out by Network members, and as of the end of the pilot, many were verbally committed to supporting *Kuleta Haki*. One potential change of note is what seems a newfound pride among bosses in supporting staff who are part of the '*Kuleta Haki*' identity. Bosses will assertively say 'I am *Kuleta Haki*, because I manage someone who is *Kuleta Haki*.' Finding a way to convince others to step away from corruption has proven difficult.

The Application of Systems Thinking

Utilization of systems thinking tools and an associated adaptive management approach were core methodological choices of the project. A number of lessons and challenges emerged from the two-year effort.

- *The need for iterative and layered analysis.* The initial broad systems analysis at both the national and provincial levels was insufficient for detailed programming. While this analysis was quite comprehensive and provided a cogent overview of how corruption functioned in the CJS, further—and repeated—detailed analysis at the local level was needed to fully develop the pilot project.

- *Local level analysis for gaining a full picture.* Much of the programming in CJS reform and strengthening takes place with a narrow focus on a few problems and equally narrow "solutions." The systems analysis workshop conducted among Network members with technical support from the project team provided comprehensive and detailed analysis at the local level and performed by local people. This analysis allowed the group to step back and see the whole picture and to understand more clearly how their efforts would address the larger corruption system.

- *Seeing yourself in the system.* The Network members were able to see where their various initiatives and activities fit and how they addressed the system of corruption. As project activities got underway, it was possible to "insert" the project initiatives and their early results into the systems map. It was also possible to see clearly that the Network's activities were able to address monetary forms of corruption, but not political interference.

- *Adaptive management.* The project did follow, more-or-less, an adaptive management approach, meaning that initial assumptions and information is held lightly, ready to be changed, based on emerging information and feedback. The repeat systems analyses, monitoring process, formative evaluation, and gender study all provided information that enabled the project team and Network to adjust activities and objectives at regular intervals. While

the project did not abandon its original Theory of Change, the project team and Network members did gain a more nuanced understanding of what was possible and how project activities were contributing to changing the greater system of corruption.

Challenges: Application of Systems Thinking

• *Gaining local fluency and ownership of systems tools.* The group seemed to appreciate the systems analyses, participated willingly in creating the maps, and were able to use it to describe how the corruption system works. However, they never seemed to fully embrace the tool and make it their own. Requests for more information and training was focused on Theories of Change and more information about anti-corruption efforts from elsewhere that work or don't work. There remains a challenge, therefore: how to work with local people so that they "own" the systems analysis—and use it actively as a point of reference in their planning and strategizing, without outside technical support.

• *Active use of the systems maps.* Most of the energy and time went into producing the systems analysis (map), and not enough on applying other tools to use the map as the basis for identifying strategies for creating change in the system. In the systems analysis and project planning workshops, small groups did explore points of leverage, and came up with ways to generate change in specific areas of the system. However, in most cases the results were not striking.

• *Reliance on old approaches.* Despite the systems analyses, Network members still tended to fall back on *old*, tired approaches: name and shame, citizen rights education, etc. The team was sometimes able to challenge those, using Theory of Change discussions, but it was hard to turn them from some activities. And, in some cases they were right, such as the insistence on visible expressions of resistance—the now famous T-shirts! The challenge remains how to balance outsider doubts (from experience and technical expertise) vs. local knowledge and ownership.

Gender Dynamics

• *Sexual favors are demanded and offered:* Sexual exploitation/favors are quite common between CJS actors and citizens and within the CJS itself. Despite the frequency, exploitation/favors are socially taboo and bring harmful consequences to those involved, though more so the shame falls to the women, if caught in the act. While seen as harmful by many, some women view the practice as their way of accessing professional advancement or making gains for their families. Men do not have this option, which leads some men to resent the practice, viewing it as an unfair advantage of women.

• *Gender includes both men and women:* In many contexts, gender is implicitly synonymous with women. In DRC, this often directed conversation towards how women might change attitudes and behavior to resist corruption without contemplating how men might do the same. If gender experience is not understood holistically by CJS practitioners, developing effective strategies of resistance to the supply and demand sides of corrupt transactions becomes challenging.

Challenges: Gender Dynamics

• *As the cultural outsider, be aware of your gender assumptions:* For cultural outsiders, it is extremely challenging to accurately interpret different gendered experiences (for men, women, boys, girls). For example, in DRC it's widely agreed that 'women are less corrupt because they guard society's values.' An outsider may see this as too overly-generalized and 'incorrect', or see this as harmful to women's equal status. In fact, we learned it may instead be the case that women enjoy a level of unique professional clout that comes from maintaining this stereotype. Thus, the only good way to understand deeply embedded social rules, and how people experience them, is by allowing local voices to interpret research findings and to point out preconceived notions or outsider assumptions about gender and gender roles.

• *We didn't get our 'gender response' quite right:* The understanding of the system of corruption and how different genders experience abuse (e.g., sexual favors/exploitation) was not accurate until our deeper dive through a Gender and Corruption Research Project (May 2017).[13] Thinking through appropriate responses prior to the 2017 work was based on incomplete information, as sexual favors/exploitation were not incorporated into the original analysis.

Monitoring, Evaluation & Learning

A learning-centric project also needs to embed reflection about its learning processes. M&E wonks know this to be triple-loop learning where we reflect on how we learn! Here is a select set of lessons (a more complete reflection on the Monitoring can be found on the Corruption in Fragile States blog).[14]

• *People have to learn how to learn and adapt.* Implementing an adaptive, learning focused program is not as simple as simply stating that a process will be learning-centric. For those who have never been asked to reflect, challenge assumptions or openly discuss mistakes, this kind of transparent assessment represents a real challenge. Moreover, a process of continual, evidence-based adaptation is contrary to traditional programming, which is dominated by logical frameworks and six-month workplans. Far greater time and attention were needed in the beginning of the project to build a common set of expectations regarding key principles of the program, such as adaptive management.

• *The Most Significant Change evaluation method generated useful information.* In many ways using MSC was a terrific learning experience for the team and the Network. The process generated useful information on what mattered to the membership and what changes took place. This gave the implementing team greater insights into programming activities that needed greater emphasis going forward and those to downplay. The process also gave concrete examples of where change was happening. For instance, in the first MSC data collection exercise a lot of attitude or 'realization' type stories were told; such as, *I have awoken about how corruption harms my country and me*. Conversely, at this time very few behavior change stories were told which was helpful for the implementing team to understand what difference the project had made, or not, to date.

• *Participatory nature of MSC was a good fit but took time.* Participants had a cultural familiarity with story-telling, which meant that they were immediately comfortable with the approach. Further, it is second-nature for educated criminal justice professionals to pay attention to detail and articulate arguments. However, despite or possibly because of this, the process of explaining the method, writing

stories, sharing and discussing with the Network (approximately 12-15 people) took half a day to a full day; somewhat longer than expected.

- *Determining Significance of a Story Was Not Simple:* It was difficult to gain authentic consensus on which of the stories were the most *significant*. One of the challenges was navigating the different 'status' levels of group members. We found that the status of who wrote the story did not matter in the process of selecting the most significant stories – when the committee picked. However, the status of author did become important in the discussion after the committee presented their choices about why the story mattered. People with status, such as a magistrate or lawyer, informally directed the discussion and made comments on the story itself, in terms of what was "good" about it.

- *The choice to conduct internally then externally was sound.* The formative evaluation was done by a combination of CDA and RCN J&D staff. The final review was done by an externally sourced team. From the perspective of trust amongst Network members and opportunity to reflect on the process, these choices made sense.

Challenges: Monitoring, Evaluation and Learning

- *What monitoring information can do—and not do.* It proved challenging to promote realistic expectations regarding what the monitoring data would provide. This was partially due to differing experiences of monitoring among the wider team. As a result, some wanted to maintain a consistent monitoring approach throughout the project life to enable easy comparison of data. Though this makes sense, it did not align well with MSC, the emergent program design process, or the tailoring of the monitoring approach so that it improved as we implemented.

Conclusion

This was an ambitious undertaking. The project used a collective action approach, which is relatively new for anti-corruption in the CJS. At the same time, it also piloted adaptive management, a newly emerging implementation model. And, the pilot attempted both of these innovative practices in a context of extreme fragility and difficult conditions. While we cannot claim to have fundamentally altered the system of corruption in the CJS in Lubumbashi, we do feel the Network is on the brink of effecting enough change to catalyze a ripple through the system.

This document contains just a small portion of the learning that was generated through this project. It is our hope that it provides insights and guidance for other practitioners who seek to effect change in the CJS in fragile states.

Acronyms

CAASDI: Central Africa Accountable Service Delivery Initiative (based at CDA)

CAR Central African Republic

CDA CDA Collaborative Learning Projects

CJL Corruption, Justice and Legitimacy Project (based at Tufts University)

CJS Criminal Justice System

DRC Democratic Republic of the Congo

INL US State Department, Bureau of International Narcotics and Law Enforcement

MSC Most Significant Change

OPJ Officier de Police Judiciaire

RCN J&D RCN Justice & Démocratie

SUGGESTED CITATION: Cheyanne Scharbatke-Church, Kiely Barnard-Webster and Peter Woodrow. Collective Action Against Corruption in the Criminal Justice System; Innovative Practice Brief. Cambridge, MA: CDA Collaborative Learning Projects, 2017.

Appendix A: Publications

The Corruption in Fragile States Blog

The Corruption in Fragile States blog series challenges readers to critically think about corruption inquiry and anti-corruption response. Written by the project team as well as guest authors, posts analyze the complex dynamics of corruption in fragile states, the phenomenon of social norms and corruption, challenges to the 'status quo' of current [quant-heavy] research practice, and systems mapping of corruption in DRC, Uganda and CAR. A key theme of this process has been understanding how different gender groups experience corruption. At present, the work on this theme is shared uniquely on the blog. cdacollaborative.org/blog

Taking the Blinders Off: Questioning How Development Assistance is Used to Combat Corruption.

This paper lays out the conceptual underpinnings to the project. It explains why corruption should be viewed as complex and the applicability of a systems approach to analysis. Written by: Cheyanne Scharbatke-Church and Diana Chigas.
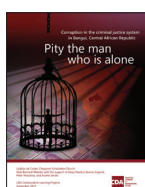
Facilitation in the Criminal Justice System: An Analysis of Corruption in the Police and courts in Northern Uganda.

Corruption in the police and criminal courts in Northern Uganda is the system—not the exception. Citizens perceive that all justice must be paid for, which diminishes their trust in the police and courts as state institutions. Corruption serves a number of functions in this context, such as access to the criminal justice institutions, survival, and maintenance of power for the elite. By: Cheyanne Scharbatke-Church, Diana Chigas with Saskia Brechenmacher, Teddy Atim, Juliet H. Hatanga, Sophia Dawkins

"Justice without Corruption, it's possible – I'm Committed" Formative Evaluation Report.

Finalized in early 2017, this formative evaluation examined what elements of the *Kuleta Haki* pilot project have catalyzed change within the project's participants and beyond, based on the project's theory of change. The evaluation found the project had catalyzed several important results such as; corruption being more regularly resisted by members of the Network, due to a "prise de conscience" – or an "awakening" – to the collective harm caused by corruption, amongst other things. Written by: Cheyanne Scharbatke-Church, Kiely Barnard-Webster, Sandra Sjogren, and Noel Twagiramungu.

Pity the man who is alone: Corruption in the criminal justice system in Bangui, Central African Republic.

Written in 2017, this analysis shows that extortion/bribery, sexual favors, favoritism, and political interference distort every aspect of the criminal justice system in CAR; making justice unobtainable for average citizens. The Séléka/anti-Balaka conflict has amplified the system of corruption, as criminal justice actors seek revenge and the recovery of lost assets in a context of eroding values. The vast majority of CJS programing does not address the actual barriers to justice and/or causes of citizen insecurity; with some contributing to the worsening of corrupt practices. Written by: Ladislas de Coster, Cheyanne Scharbatke-Church, and Kiely Barnard-Webster, with Kessy Martine Ekomo-Soignet, Peter Woodrow, and Arsène Sende.

Endnotes

1 Cheyanne Scharbatke-Church, with Barnard-Webster. *Understanding Corruption in Criminal Justice as a Robust and Resilient System: An analysis process using systems thinking tools. Version 1.0* Cambridge, MA: CDA Collaborative Learning Projects, 2017. http://cdacollaborative.org/publication/understanding-corruption-criminal-justice-robust-resilient-system/

2 In conversation after conversation in CAR (2017) and Uganda (2016) with international staff responsible for CJS reform or development funding or programming, our questions related to the degree and impact of corruption on the CJS were met with blank stares. See for an example: Cheyanne Scharbatke-Church, Ladislas de Coster and Kiely Barnard-Webster, with Ekomo-Soignet, Woodrow, and Sende. *Pity the man who is alone: Corruption in the criminal justice system in Bangui, Central African Republic.* Cambridge, MA: CDA Collaborative Learning Projects, 2017. http://cdacollaborative.org/publication/pity-man-alone-corruption-criminal-justice-system-bangui-central-african-republic/

3 For reference, see: (1) Cheyanne Scharbatke-Church and Diana Chigas with Brechenmacher, Atim, Hatanga, and Dawkins. *Facilitation in the Criminal Justice System: A Systems Analysis of Corruption in the Police and Courts in Northern Uganda.* Occasional Paper. Medford, MA: Institute for Human Security and The Fletcher School of Law and Diplomacy, Tufts University, 2016. http://fletcher.tufts.edu/~/media/Fletcher/Microsites/Human%20Security/Facilitation%20in%20the%20Criminal%20Justice%20System.pdf and (2) Cheyanne Scharbatke-Church, Ladislas de Coster and Kiely Barnard-Webster, with Ekomo-Soignet, Woodrow, and Sende. *Pity the man who is alone: Corruption in the criminal justice system in Bangui, Central African Republic.* Cambridge, MA: CDA Collaborative Learning Projects, 2017. http://cdacollaborative.org/publication/pity-man-alone-corruption-criminal-justice-system-bangui-central-african-republic/

4 For a more detailed account of the problem with this assumption, see Cheyanne Scharbatke-Church and Diana Chigas. *Taking the Blinders Off: Questioning How Development Assistance is Used to Combat Corruption.* Occasional Paper. Medford, MA: Institute for Human Security, The Fletcher School of Law and Diplomacy, Tufts University, 2016. http://cdacollaborative.org/publication/taking-blinders-off-questioning-development-assistance-used-combat-corruption/

5 Originally with a focus on three countries of Central Africa: South Sudan, Central African Republic (CAR) and the Democratic Republic of the Congo (DRC). Ultimately, three analysis of corruption in the CJS were produced in the DRC, CAR and through a sister-project housed at Tufts University, Uganda. The findings and corresponding systems maps are available at: www.cdacollaborative.org.

6 A simple phenomena (problem) is one that can be understood fairly easily, though this does NOT imply that it is easily solved! Simple problems usually have known solutions that have proven effective. A complex problem involves multiple causes and effects interacting in shifting patterns. Typically, solutions are not known or proven, and, in any case, complex problems require multifaceted interventions and flexible and adaptive management, based on regular feedback.

7 The basis of the approach is explained in Cheyanne Scharbatke-Church, and Diana Chigas. *Taking the Blinders Off: Questioning How Development Assistance is Used to Combat Corruption.* Occasional Paper. Institute for Human Security, The Fletcher School of Law and Diplomacy, Tufts University, 2016. Accessed at: http://cdacollaborative.org/publication/taking-blinders-off-questioning-development-assistance-used-combat-corruption/

8 For the full report and systems map, see: Cheyanne Scharbatke-Church, Ladislas de Coster and Kiely Barnard-Webster, with Kessy Martine Ekomo-Soignet, Peter Woodrow, and Arsène Sende. *Pity the man who is alone: Corruption in the criminal justice system in Bangui, Central African Republic.* Cambridge, MA: CDA Collaborative Learning Projects, 2017. http://cdacollaborative.org/publication/pity-man-alone-corruption-criminal-justice-system-bangui-central-african-republic/

9 A detailed description of the systems-based corruption analysis process can be found in: Scharbatke-Church, with Barnard-Webster. *Understanding Corruption in Criminal Justice as a Robust and Resilient System: An analysis process using systems thinking tools.* Version 1.0 Cambridge, MA: CDA Collaborative Learning Projects, 2017. http://cdacollaborative.org/publication/understanding-corruption-criminal-justice-robust-resilient-system/

10 Scharbatke-Church and Rogers, *Designing for Results 2.0*, forthcoming 2018.

11 A free *Most Significant Change Manual* (by Davies and Dart) is available online in multiple languages.

12 For more information on *Utilization Focused Evaluation*, see Michael Quinn Patton's book of the same name.

13 More commentary on the results of the gender deep dive may be found on the *Corruption in Fragile States* blog series: http://cdacollaborative.org/blog/corruption-fragile-states-blog-series/

14 For a more fulsome description of the MSC process used in this program and the lessons learned, see the blogs by Cheyanne Scharbatke-Church and Sandra Sjogren on the CDA Perspectives – *Corruption in Fragile States* blog series: http://cdacollaborative.org/blog/reflections-using-significant-change-anti-corruption-program/?src=series and http://cdacollaborative.org/blog/using-the-participatory-monitoring-approach-most-significant-change-for-an-anti-corruption-program/?src=series

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