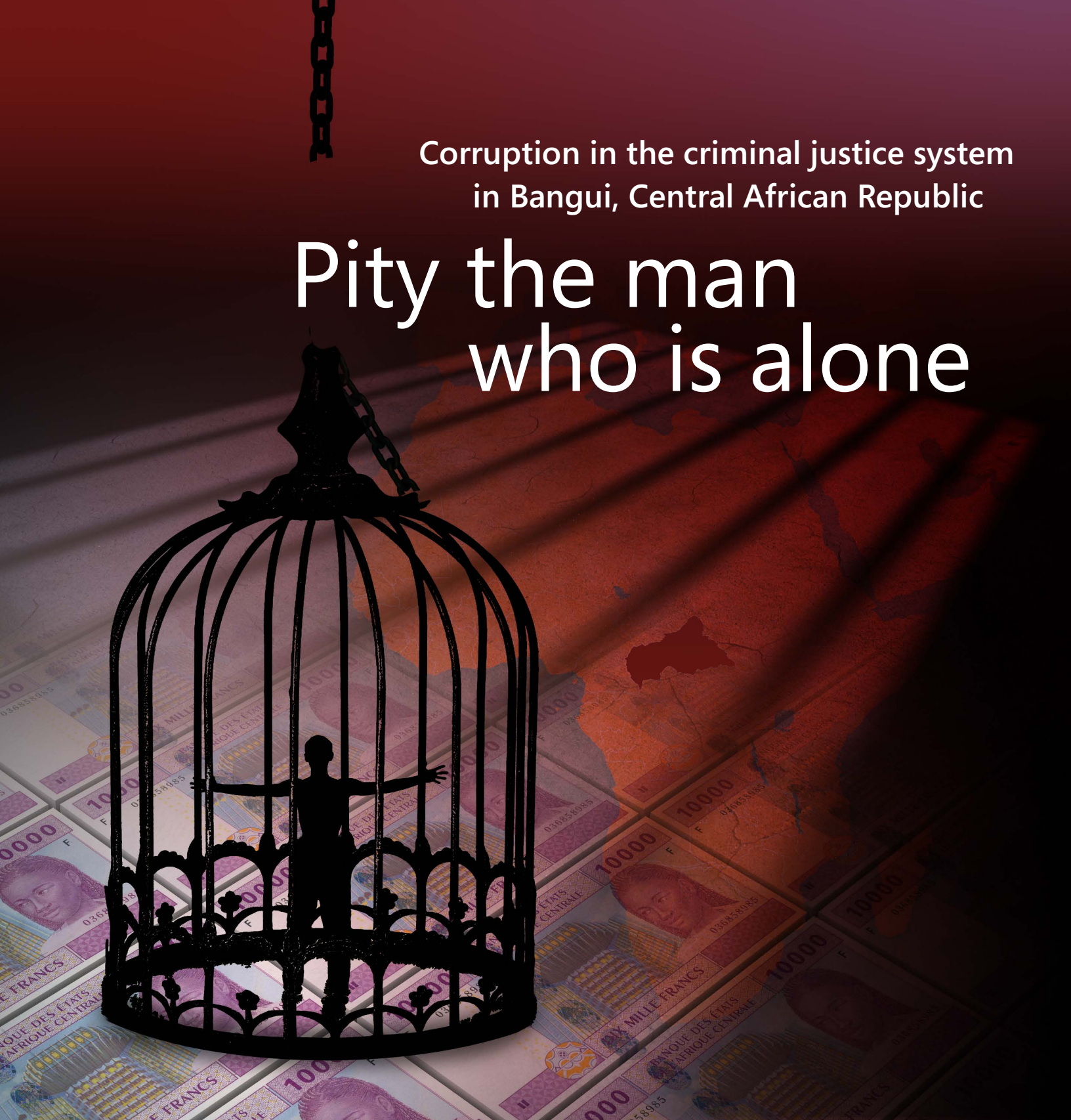


Corruption in the criminal justice system
in Bangui, Central African Republic

Pity the man who is alone



Ladislav de Coster, Cheyanne Scharbatke-Church,
Kiely Barnard-Webster with the support of Kessy Martine Ekomo-Soignet,
Peter Woodrow, and Arsène Sendé.

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Executive Summary

“Justice has disappeared in the Republic. It is unknown.”

A FORMER MAGISTRATE

Criminal justice sector (CJS) reform programming in the Central African Republic (CAR) ignores the role corruption plays in distorting justice. Without addressing the abuse of power for personal gain by actors within the system, the international community's reform goals are not obtainable. Worse, some aspects of these programs appear to be fueling, rather than abetting, the system of corruption.

The Corruption, Legitimacy and Justice project conducted one hundred fifteen key informant interviews with criminal justice actors, citizens and the international community in Bangui in July 2017. Using a new methodology derived from systems analysis, this project seeks to contribute to more effective anti-corruption programming.

WHAT NEEDS TO HAPPEN TO TRANSFORM THE CRIMINAL JUSTICE SYSTEM

The international community plays an outsized role in CAR, a country of only 4.9 million people, that sits last on UNDP's Human Development list.ⁱ At a minimum, the international community should make its CJS programming corruption sensitive. Injecting more resources into the CJS provides more goods and rewards to be allocated according to the same corrupt rules.

If the international community wants real reform in CAR's CJS, there needs to be widespread redesign of reform programs. Being willing to think and work politically is key to effecting change in this context. Currently, most programs do not adequately address the actual barriers to justice and/or causes of citizen insecurity. Key donors need to develop an integrated strategy to target the drivers of corruption at the highest level of government. The evidence shows addressing political factors is often more important for making a difference than funding levels or even programs' technical quality.ⁱⁱ

KEY FINDINGS

- Extortion/bribery, sexual favors, favoritism and political interference distort every aspect of the criminal justice system, making justice unobtainable for average citizens. Corruption in the CJS is a system driven by a multiplicity of factors such as survival and corrupt leadership; along with social norms that make corruption a rational choice. In a place the size of Bangui, the price for noncompliance with norms is significant. Impunity for crime and corruption has created a deep-seated distrust in the system, delegitimized state institutions and galvanized revenge and mob justice.
 - The Séléka/anti-Balaka conflict has amplified the corruption dynamic as criminal justice actors seek revenge and the recovery of lost assets in a context of eroding values. The same state discrimination against Muslim citizens that fed the crisis, plays out in the sys-
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CORRUPTION, JUSTICE AND LEGITIMACY PROJECT

The Corruption, Justice and Legitimacy project advances innovative approaches to corruption analysis in fragile and conflict-affected contexts. Focusing on the criminal justice sector, the project supports more holistic efforts to diminish corruption in core state activities related to human security. The project is hosted jointly by CDA Collaborative Learning Projects and The Human Security Institute at The Fletcher School of Law and Diplomacy, Tufts University. This paper is the third in a series of papers that will result from this project. The first, "Taking the Blinders Off: Questioning how international aid is used to combat corruption" provides the conceptual foundation for the project. It critically examines existing anti-corruption practice and explains how corruption is best understood through a complexity lens which is contrary to the dominant anti-corruption approaches.

The project also hosts a blog on corruption in fragile states which challenges thinking about established practices in anti-corruption programming in fragile and conflict-affected states. Please join us at <http://cdacollaborative.org/blog/the-corruption-in-fragile-states-blog-series/?src=careport>

ACRONYMS

CAR	Central African Republic	NGO	Nongovernmental Organization
CFA	Central African Franc	NSAM	National School of Administration and Magistrates
CJS	Criminal Justice System	OJP	Officers of Judiciary Police
ISF	Internal Security Forces	UN	United Nations
MINUSCA	United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic	UNDP	United Nations Development Program

Introduction

“Justice belongs to those who have money.”

KEY INFORMANT

Fighting between armed rebel groups in the Central African Republic (CAR) has reignited as of May 2017 – continuing a cycle of violence begun in 2013. The factors behind the conflict are contested: struggles for religious and political dominance^{iv}, widespread inequality and rampant corruption^v are widely cited, amongst others. Over a half a million people have fled, with 600,000 more displaced internally risking assault by armed groups.^{vi} To Central African citizens, the international community’s presence during much of this four-year crisis has been viewed with skepticism; needs are great and renowned international organizations have made worse a situation that is – at present – sliding the country toward greater instability.^{vii} National and international actors face the critical task of putting a brake on this downward spiral which has been catalyzed, in part, by corruption.

Yet, corruption remains rampant in CAR. Government services, where they are available, have been monetized across all government institutions including the criminal justice sector (CJS). The unique feature of corruption in criminal justice, however, is that it allows official actors to take measures that deprive people of their liberty. This power to imprison greatly influences the ways in which corrupt acts are implemented, and it also influences the causes and consequences of corruption. The penal code of the Central African Republic^{viii} criminalizes embezzlement of public money and goods, corruption, graft, and influence-peddling. Yet impunity for corruption and because of corruption is the norm.

This research project set out to develop possible programming options that respond to the unique dynamics of corruption in CAR as a fragile state, based on a robust analysis of the corruption “system.”¹ The product of the analysis, a systems map, offers an explanation of how multiple factors in Bangui interact to generate particular patterns of corrupt behavior in the police, courts and corrections. The systems analysis is based on research findings and was generated through the application of a unique corruption analysis methodology.

Developing a corruption analysis methodology

This is the third study of corruption in the criminal justice sector in a fragile state conducted as part of the Corruption, Justice and Legitimacy project. Using systems thinking, this effort is developing a corruption analysis methodology that seeks to catalyze more effective anti-corruption programming. The initial pilot occurred in the Democratic Republic of the Congo in 2014. The Northern Uganda corruption analysis, *Facilitation in the Criminal Justice System*, was published in 2016.

1 The project did not succeed in developing programming options because of the unexpected cancellation of this step by the donor.

This analysis looks specifically at the police, courts and corrections in Bangui, in their role as criminal justice actors. CAR's criminal justice system is reminiscent of France's inquisitorial system, with courts responsible for the burden of conducting trials. At present, most pieces of the CJS are operational in Bangui, but far less so in the rest of the country. Recent figures suggest there are 3,700 registered police and gendarmerie officers in the country, with only 800 deployed outside of Bangui. The police-citizen ratio of 1:1,250 is extremely low.^{ix} In this context, the policing function is conducted by gendarmerie and police; with overlapping responsibilities but different hierarchies, internal culture and government support.² The Auxiliary Police represent an additional group of individuals who act as police, but are unpaid and untrained.³ Courts are operating in Bangui with one court in Bimbo – a town roughly five kilometers southwest of Bangui. Finally, there is one prison operating in Bangui with a detention center at Camp de Roux and a prison for women in Bimbo.



Map 1: Central African Republic

RESEARCH METHODOLOGY

The research team used a qualitative methodology because of the sensitivity of the topic and nuance necessary to deliver a systems analysis (See appendix A for a detailed description). In the field, one hundred fifteen interviews and three focus groups were conducted with criminal justice actors, citizens and implementers/donors. [Table 1] Identified through purposive sampling, interviews consisted of thirty-nine women and seventy-six men with the majority self-identifying as Christian. [Table 2]

Table 1. Key Informant Interview Categories

CJS Actor	Citizen	Implementers/Donors	Total
64	36	15	115

Table 2. Religious Background of Key Informants

Christian	Muslim	Animist	Unknown
83	5	1	26

The results of this study should be read with the limitations of the research in mind. First, data was only collected in Bangui due to travel restrictions caused by ongoing insecurity. Second finite project resources meant that the inquiry only looked at the corruption dynamics pertinent to getting in or out of prison and a robust gender analysis was not conducted.

CONTEXT OF THE CENTRAL AFRICAN REPUBLIC (IN BRIEF)

This report focuses primarily on corruption dynamics within the CJS. Yet one cannot divorce the CJS from the society in which it functions. Specifically, it is important to understand the important recent history and ongoing conflict dynamics that have profound effects on the functioning of the CJS.

CAR is situated in a complex and conflict-ridden region of Central Africa. Bordered by Chad, Sudan, South Sudan, Cameroon, Republic of the Congo and Democratic Republic of the Congo, the country is no stranger to instability. Within CAR, conflict has erupted at various

² Due to the recent crisis, in a few places armed groups have taken on the function of policing to fill the void of official police presence, but this is less pronounced in Bangui.

³ Originally brought on to help with small tasks like raising barriers, it is reported that their numbers have multiplied over the years. They have undergone no legal education or police training though they wear police uniforms and carry firearms.

intervals for more than four years, while political leaders struggle to establish long-term control over basic government functions. Corruption plays a role in both: in the conflict, and in leaders' struggle to control government services, all of which must be understood within the context of complex organizing dynamics within the society.

CUSTOMARY HIERARCHIES AND (POST-COLONIAL) ETHNIC IDENTITIES PLAY CRITICAL ROLES IN SOCIETY.

The notions of family and familial connections have always been central to how society functions in CAR. Prior to the arrival of Europeans, distinction between ethnic groups was highly fluid, changing due to social and economic circumstances.^x Family and clan identity was the primary source of identity, not ethnicity.^{xi,xii} Customary hierarchies were based on clan affiliations.



Map 2: A look at the region

After colonization, the idea of ethnicity in CAR took root for the first time and became a way to manipulate control over the country. The French colonial administrators messily attempted to divide Central Africans into eight ethnic groups, then worked primarily with the southern riverine people (Mbaka, Yakoma, Oubangui). After independence, these groups emerged as an indigenous ruling class.^{xiii} Further ethnic polarization is often attributed to the actions of Presidents Kolingba, Patassé and Bozizé^{xiv} who pitted Yakoma (southern ethnic group) against Sara-Kaba and Gbaya groups (northern). Tension between these two groups remains a contentious element of 'ethnic' grievances, and has since expanded into tension between the "North" and "South."^{xv} Despite this, adherence to family and clan identity is arguably still more important to many Central Africans today.

CAR IS IN A STATE OF ONGOING, SPORADICALLY-VIOLENT INSTABILITY. CAR has experienced ongoing periods of intense violence followed by tense calm throughout much of the past fourteen years; beginning when Francois Bozizé (previously the armed forces chief of staff) ousted former president Patasse in 2003.^{xvi} At first, Bozizé was seen as a 'liberator' to CAR citizens and had momentum for change in the country. He purportedly re-instituted paying civil servants, and pushed ahead national political dialogue.^{xvii} Yet instability continued. Multi-party peace talks were held in Bangui (2008) and the Libreville Peace agreement was born. This accord was meant to stop rebel activity and implement steps for national elections yet little effective action resulted. The predominately Muslim Séléka armed rebel group – intent on ending Bozizé's rule^{xviii} – formed and invaded Bangui (2012).⁴ In response, the anti-Balaka formed as a coalition of local self-defense groups to challenge the Séléka.

Séléka and the government agreed to a promising "second Libreville Accord"^{xix} (2013) which then fell apart months later when Michel Djotodia, leading the country as a Séléka member, "suspended the constitution, announced the dissolution of the National Assembly and said he intended to rule by decree."^{xx} Bozizé fled the country days later. Leaders assembled yet again to discuss the future of CAR through the Bangui Forum (2015), which put forth a new constitution.^{xxi} Elections took place in early 2016, signaling the official end of the 'transition' from the 2013 violence.

4 The State Department estimates that 15% of the country's population is Muslim. U.S. Department of State. 2015. "Central African Republic 2015 International Religious Freedom Report." <https://www.state.gov/documents/organization/256217.pdf>

Today, the anti-Balaka group (of mostly Christians) still opposes those from what remains of the (mostly Muslim) Séléka movement, like the group 'FPRC,'^{xxii} giving the ongoing tensions a religious dimension. This is played out in the streets where Muslims experience discrimination and a general sense of threat in Bangui. Political leaders in CAR still struggle to maintain a stable trajectory towards security and peace.

VIOLENCE HAS SPIKED. In July 2017, violence erupted in Bria immediately after the CAR government and thirteen of the fourteen rebel groups agreed to a ceasefire in Italy, killing hundreds.^{xxiii} Since then, violence has continued throughout CAR. The international community continues to play a role to help dispel the violence and aftermath, although how active this role has been over the many years of conflict is often contested. Currently the UN peace-keeping mission, MINUSCA, mandated to be in CAR until November 2017, has 12,870 total uniformed personnel in-country (military and police).^{xiv} The donor community has also committed significant resources. For instance, United States Government aid to CAR in FY 2017 totals \$96,441,928^{xxv} with the European Union contributing 15.5 million Euro of humanitarian funding in 2017 alone (one hundred twenty-nine million Euro since 2013).^{xvi}

The System of Corruption in the Criminal Justice Sector in CAR

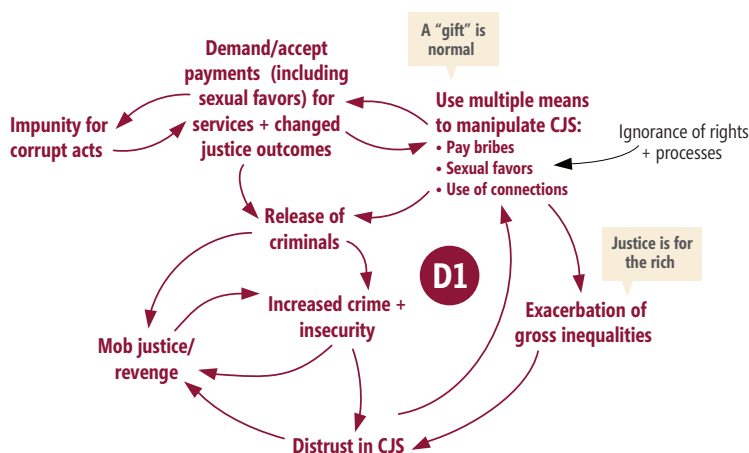
"We are surrounded, above, below, on the sides, by corruption, so why shouldn't we?"

QUOTE FROM CRIMINAL JUSTICE ACTOR IN BANGUI

To approach corruption as a distinct set of discrete actions performed by individuals in the criminal justice sector shows a fundamental misunderstanding of how corruption permeates and distorts criminal justice.^{xvii} It is more accurate to approach corruption as patterns of behaviors driven and enabled by multiple factors that, together, serve as barriers to the rule of law, security and a healthy relationship between citizens and institutions of government. Systems analysis allows one to understand these complex, resilient and constantly adapting patterns of interaction and provides the basis for devising strategies for catalyzing improvement in access to justice.

In developing a systems map of corruption in the CJS, the team has drawn on the research findings generated from in-depth interviews with citizens and criminal justice actors—as well as observers of the system. In constructing the map, the team designated groups of factors that, together, form a set of interrelated dynamics. There are seven such dynamics that collectively make up the system of corruption in the CJS in CAR. Labelled from D1 - D7, each is described below individually for clarity, with the understanding that they all connect, as illustrated in the overall map.

D1: The core corruption dynamic in the Criminal Justice System



Payments, as typified by bribery/extortion or sexual favors, are at the center of the provision of services in the CJS. These transactions, strategically supported by connections (when available) influence all aspects of the criminal justice chain, including dictating justice outcomes. They enable criminals with sufficient wealth and connections to remain free; contributing to the sense of

insecurity in Bangui and galvanizing popular justice. The systematic perversion of the CJS has sown a deep distrust amongst citizenry in the criminal justice institutions; fueling the use of mob justice and revenge. This creates a greater sense of insecurity and increases the threat of crime.

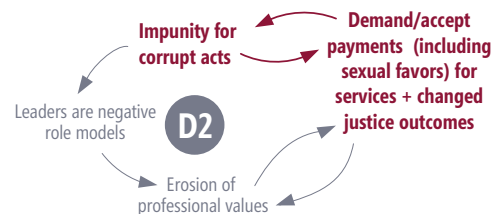
Simultaneously, the distrust in the criminal justice institutions increases citizen attempts to manipulate these institutions through bribes, sexual favors and/or the use of connections. This expands the influence of corruption on service provision and justice outcomes. Each of these acts requires access to resources or the right connections thereby excluding anyone without wealth or the right network. When justice is only available for the rich and well connected, it further reinforces a state-supported two-tier system (i.e., the tiny group of elites and everyone else), thereby exacerbating already existing inequalities in the society.

Muddying the water somewhat is the cultural use of gifts as a sign of respect and appreciation. Though authentic use of gift-giving still occurs, and people feel that this falls outside of the category of corruption, within the CJS there is a cohort that perceives gifts to come with expectations of future assistance. For example, when a judge is offered the use of a vehicle to conduct their work, the car owner may consider this an investment in case a future favor is needed.

Enabling this negative cycle of corruption, distrust, mob justice and inequity is the reinforcing relationship between the demand for payments and the total impunity for corrupt actors. As more people get away with corrupt acts, more extortion demands are made or bribes accepted because the perceived risks of corruption diminish. Simultaneously, corrupt actors become more emboldened, because they are aware that they can buy their way out of sanctions, if necessary.

D2: How impunity and negative leadership feeds corruption

Leadership – political and within the CJS hierarchy– is ultimately responsible for the rampant impunity, as these are the roles that carry the authority to implement state functions. Their passive and active participation in the perpetuation of impunity presents a model of corrupt behavior as the accepted practice for officials. Criminal justice actors and citizens alike spoke of the negative behavior of leadership and the impact it has on their choices. In essence, they feel, if the bosses can do this, why shouldn't we? The fact that leadership is perceived to be complacent in impunity and corruption creates a "ripple effect" throughout public institutions, resulting in the pernicious erosion of professional ethics. This further fuels demands for payments, as ethical boundaries no longer exist.



D3 & D4: Contribution of corruption to the crisis and the crisis to corruption

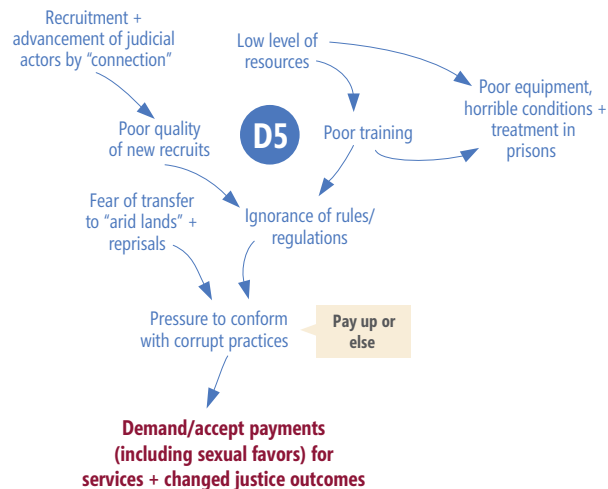
The vicious cycle of extortion, impunity, distrust and mob justice in Bangui is not new and does not restrict its consequences to the justice sector. In the past decades, as this cycle became more and more entrenched, it fed the grievances that ultimately erupted in the widespread Séléka/anti-Balaka violence.

The Séléka/anti-Balaka crisis exacerbated many existing factors that drive or enable corruption at the personal, professional and societal levels. In the professional realm, the conflict served to destroy professional ethics further, extinguishing any semblance of ethical boundaries. Personally, the loss of assets from the crisis created a need (real and perceived) to quickly recoup one's assets. Criminal justice actors in Bangui are using the means available to them, including extortion of citizens or internal 'transfer' payments from lower ranking officials. With the pervasive sense of scarcity, the already existing norms that supported abuse of power for personal gain became magnified. Namely, responsibility to ensure extended family

Closely linked to the notion of familial obligation is the desire on the part of families for visible signs of wealth (e.g., a house) or the criminal justice actors' aspiration for social status (e.g., a mistress, multiple wives). Sometimes catalyzed by greed, family bonds are often used to pressure criminal justice actors to capitalize on their opportunities. Never stated as pressure to be corrupt, as this is a social taboo, it is framed in terms of family needs. Nevertheless, the consequence is an increased use of extortion.

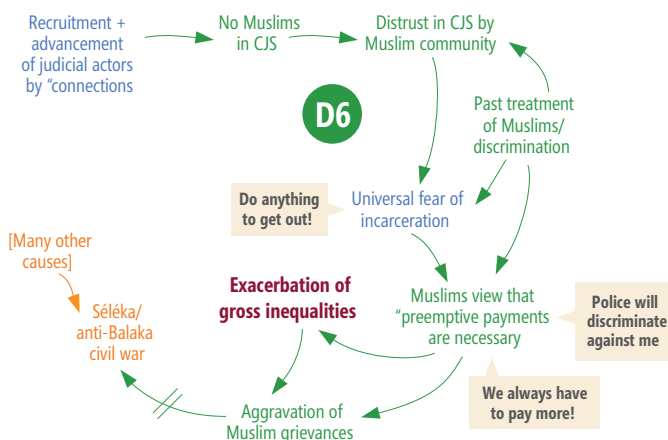
D5: Inadequate resources (human and material) enable demands for payments

The favoritism-based model of recruitment and promotion creates a workforce that is unqualified, and often ignorant of the laws, regulations and procedures pertinent to their role. Exacerbated by the low level of resources in the government, the CJS sees paltry amounts of training, poor equipment and terrible conditions within corrections. The degree of ignorance is especially egregious when their role is to enforce the law. When these actors do not know the official rules, they become more vulnerable to pressure to conform to existing practices (favoritism, influence, bribery, etc.).



When it comes to favoritism within the CJS itself, non-compliance with established (though illicit) practices is viewed negatively. Though less severe than familial reactions, a CJS actor who fails to provide a "written account" to his/her superior or refuses to do a favor for a colleague will typically suffer transfer to "arid lands" or other reprisals—immediately or eventually. A written account in this context is not a report, but a handing over of the earnings (e.g., money, goats, etc.) raised in the field. "Arid lands" are positions or locations that do not allow one to supplement income—the opposite of juicy locations.

D6: Muslim interactions with the CJS: discrimination and avoidance



Groups without existing representation within the CJS have little opportunity to gain entry because the basis for hiring is through family or social connections. This is clear in the case of the Muslim community, as there are few Muslim actors within the CJS. Given the importance of using connections in order to obtain justice, the absence of 'their own' generates a distrust in the criminal justice institutions, as Muslim citizens lack people on the inside who can use their influence

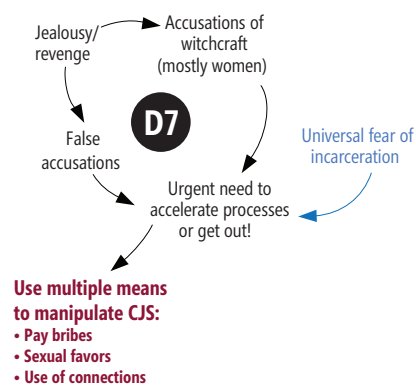
on their behalf. This distrust is reinforced by the past treatment and discrimination experienced by the Muslim community at the hands of the CJS. The result is a palpable fear of incarceration.

Within the Muslim community, all of these experiences have, over time, given rise to a mindset of “do whatever it takes to avoid contact with criminal justice actors.” This mental model – an automatic way of understanding one’s environment – now influences all their interactions with the CJS.

The history of poor treatment coupled with the fear of becoming entangled in the CJS has generated the sentiment that preemptive payments are necessary. The choice to make these payments is influenced by two more mental models. The first is the belief that police will discriminate against Muslims. The second is the understanding that Muslims always have to pay more. The reality of these mental models is supported by the findings among criminal justice actors, who explained that Muslims are seen as more profitable targets of extortion. Interviewees also noted that the Muslim community would rally around and contribute funds to help gain the release of a community member—which adds to the sense that they are able to pay more.

These preemptive payments, typically more lucrative for the criminal justice actor than from non-Muslim citizens, contributes to the sense of inequality in society, where justice is only for the rich. This systematic oppression by the authorities feeds Muslim grievances—grievances that the 2013 crisis shows can erupt into violence.

D7: Jealousy and revenge fuel the need to manipulate the CJS



The Muslim community is not alone in their manipulation of the CJS. All communities engage in bribery, use of connections or sexual favors with criminal justice actors in order to achieve their ends. This behavior is driven by several factors in the environment. First, the fear of incarceration, in terms of the perceived impossibility of obtaining liberty without paying money, as well as the harsh living conditions found in prisons. Together, these factors create an urgency to extract oneself from the system or accelerate the process once in the system to get to a desired conclusion. Driving some of

the urgency to act is the use of false accusations motivated by jealousy and revenge. When retaliation for a past slight or offense is the basis for a false criminal accusation, then the only response appears to be manipulation, as trusting the process to prevail is unheard of. Revenge and jealousy take a unique gender twist through the use of accusation of witchcraft—a criminal offense—typically leveled at women in CAR.

The Combined Picture

The systems map depicts the experiences of criminal justice actors on the left side while the right side shows the citizen experience. The seven dynamics, put together, show how corruption is a multi-faceted and inter-connected set of factors that are deeply entrenched in the CJS. Any intervention to reform the CJS would need to take these dynamics into account, if sustainable change is to be achieved.

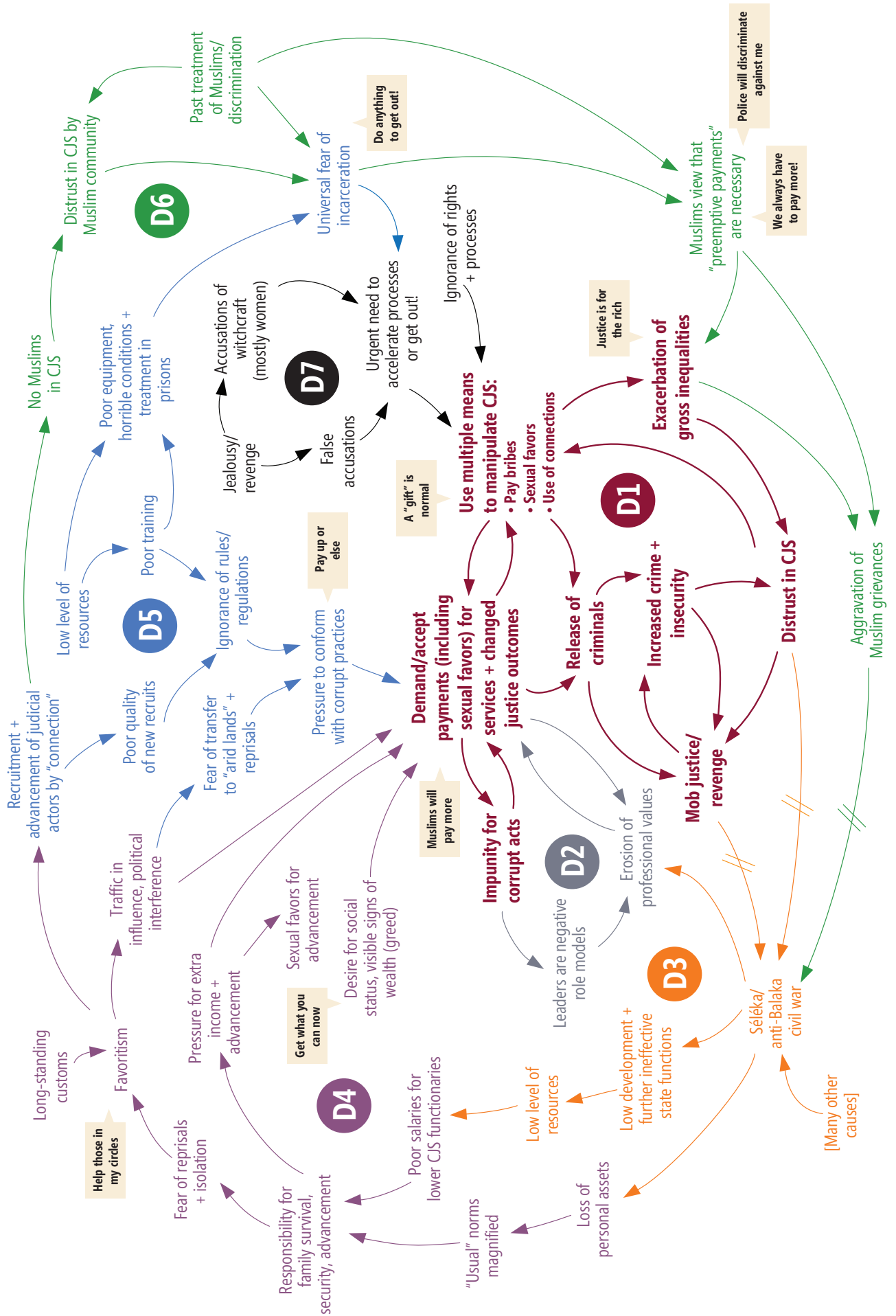
WHAT IS A SYSTEMS MAP?

This causal loop diagram, or systems map, explains how multiple factors in a context interact to drive or enable particular patterns of corrupt behavior in the police, courts and corrections. The map itself provides a visual representation of the dynamic relationships among elements of a system, and makes explicit an analysis of the underlying structure (the inter-relationships among factors) that gives rise to the patterns of behavior. The map consists of:

- Factors: drivers, enablers and effects of corruption.
- Mental models/social norms: ways of framing or thinking about issues, generally implicit, that may determine behavior.
- Causal links, depicted as arrows: showing the relationship and direction of influence between variables. In this map, they are all in the same direction, meaning that as one factor goes up so too does the next factor.
- Time lags or delays between cause and effect: An arrow with two strokes across it means that there is a time delay in the relationship. That is, the cause may lead to an effect only after a period of time.

CRIMINAL JUSTICE ACTOR VIEW

CITIZENS VIEW



Research Findings

“If you are an unknown person in this country, you are screwed.”

FEMALE CITIZEN

1. INTRODUCTION

In order to break out of the standard recipes that are used to combat corruption,^{xxviii} this project takes a broader, more politically-sensitive approach to analysis. While systems thinking provides the form of analysis, the basis from which that analysis is done is critical. This section provides the research findings that derived the systems map. It is structured along the lines of the core areas of inquiry necessary to grasp the complete system of corruption. It is assumed that readers will dip in and out of the document and as such some strategic redundancy exists in the text.

2. WHAT PURPOSE DOES CORRUPTION SERVE?

A key tenet of systems thinking is that all systems serve a “purpose” (i.e. the system has a function). Attempts that try to change the system that do not recognize the function the system is serving are almost always ineffective because the system will seek to restore itself to the original purpose. More than most systems, corruption has proven highly adaptable and persistent – showing real resiliency – to the frustration of those who attempt to achieve permanent change.

The system of corruption within the CJS in Bangui serves a number of purposes depending on who you are in the system. These purposes are not strictly contained to each group, with some inevitable overlap occurring.

- From the citizen’s point of view: For the poor, corruption is how one survives an encounter with the criminal justice system, while for the wealthy and connected, corruption is how one manipulates the system to one’s desired outcome.
- From the point of view of lower-rank officials: Corruption is a survival strategy that helps them meet the needs of their extended family.
- For higher-rank officials: Corruption is used to build and maintain status and power professionally and socially. It has taken on more of a predatory role since the crisis, as this group tries to regain what was lost in the conflict.

3. WHAT TYPES OF CORRUPTION HAPPEN IN THE CRIMINAL JUSTICE SYSTEM IN BANGUI?

Bribery and extortion are the most common forms of corruption in the CJS in Bangui. What forms of corruption rank second depends on whether one is male or female. Women consider sexual favors to be the second-most practiced form of corruption, while men say that it is favoritism. They both agree that political interference in the criminal justice process is the fourth most common type of corruption. Typically, however, more than one type of corruption is used at the same time in order to secure the desired outcome.

Table 1 was generated based on responses to the following question: *“In your opinion, what are the most common forms of corruption in CAR?”* The table presents the number of times that respondents referred to the four most frequently-cited types of corruption, by gender.

Table 1. Number of references to each type of corruption divided by the number of people interviewed; ranking in parentheses

Type of corruption	Men	Women
Bribery and extortion	2.02 (1)	1.69 (1)
Favoritism	1.18 (2)	0.56 (3)
Sexual favors	0.47 (3)	0.61 (2)
Political interference	0.38 (4)	0.44 (4)

3.1 BRIBERY AND EXTORTION

The people interviewed almost unanimously recognized that the practice of bribing dominates interactions in the CJS⁵ making it the most common form of corruption.⁶ The prevalence of bribery is such that it is captured in a Sango proverb: *“Whoever pays, gives the orders.”* Citizens and criminal justice actors alike spoke of this phenomenon in CAR.

“With money, you can buy anything.”

BRIBERY WITHIN THE POLICE AND GENDARMERIE

The police and gendarmerie extract money illegally from citizens in a variety of ways: requiring fees for service, using detention for financial gain, selling the investigation, and stealing public assets.

FEE FOR SERVICE: Among the internal security forces (ISF) in CAR, the practice of charging a fee to conduct basic tasks was frequently noted during interviews. These are de facto “taxes” (i.e., they are not legal) charged by brigades (gendarmerie) and precincts (police) to make up for insufficient resources in their offices, including; supplies like paper, pens, and ink, or equipment, such as vehicle fuel or uniforms. However, fees requested exceed the true costs, allowing them to siphon off revenue for personal use.

⁵ The term used in conversations was ‘bribery’ without distinguishing whether the money was paid in response to a demand (i.e., extortion) or was proactively offered (i.e., bribery). In the balance of this report, the term bribery will be used to mean both.

⁶ This section will concentrate exclusively on sums of money given illegally to actors in the judicial system in exchange for a service provided. It will not, therefore, cover bribes obtained by internal security forces who operate outside their judiciary police function, for example as they set up road blocks; nor will it cover corrupt practices in civil judgment cases.

There are a multitude of these illegal taxes such as the “assault fee,” which is required from people involved in assaults, or the “withdrawal fee” which is paid by a plaintiff who wants to withdraw a complaint. The most common fees mentioned during interviews were:

- **COMPLAINT FILING FEE:** this is an amount due to the secretary’s office when a citizen wants to file a complaint. It varies between CFA 1,000 and 2,000 (approximately two to four USD).
- **SUMMONS FEE:** this must be paid to the inspector in charge of the investigation, so that a summons will be delivered to the opposing party. In general, this tax amounts to CFA 1,000, and must be paid by both parties to the dispute.
- **INTERVENTION FEE:** this must be paid to the mobilized team that will go in the field to document the offense or apprehend the main suspects. The tax is up to around CFA 15,000 (approximately twenty-seven US dollars and fifty cents) and used to pay for vehicle fuel.

These taxes are illegal, but they are almost always a prerequisite to an intervention or investigation by the ISF. Though not codified in law, these types of taxes seem to be applied relatively uniformly by all brigades and police precincts in the city of Bangui, with the specific amounts left to the discretion of commissioners and brigade commanders.

“With money, you can get out of a jam.”

It is felt that this seemingly small-scale extortion can also have consequences on the outcome of a case, and thus extend beyond a simple fee for service. Because the plaintiff must pay a number of different taxes to ensure that the process will be initiated, this is felt to influence the impartiality of the final outcome. Effectively, given that an official has received several payments it is assumed that they will be partial to the plaintiff, and therefore the plaintiff will have an advantage over the accused. This belief is buttressed by the fact that the ISF are perceived to act as contractors who want to satisfy their clients. According to one NGO, *“When it comes to criminal affairs, the plaintiff is never wrong.”*

This, however, is not a sure thing. People also reported that a plaintiff can lose, if the target of an investigation has more money or connections who are better placed to help them. For example, the people in one neighborhood had lodged a complaint against a roofing sheet thief and paid the “complaint filing fee” and the “intervention fee.” The thief was arrested by the police, but he was released, because the receiver of the stolen goods paid CFA 30,000 (approximately fifty-four US dollars and fifty cents) to the police.

USING DETENTION FOR FINANCIAL GAIN: The majority of interviewees described how the police abuse their powers of detention and release to extort money from citizens. Police or gendarmes frequently arrest people for legal offenses that are either minor or moderately important, and keep them in detention until the detainee or his/her family pays an illegal fine. The detainee is then released without any formal documentation of the event. A typical example of this behavior occurred after a fight broke out in a bar. The police sent all those on site to the precinct, then required each to pay CFA 10,000 (approximately eighteen USD) to be released.

Several citizens noted that the ISF try to arrest people at night or at the beginning of the weekend or holiday to reduce the recourse options of detainees. This puts them in a more precarious position, as it is more difficult at night or on weekends to find someone to help you negotiate your release.

“It is poor people who suffer in prison.”

This abuse of authority is not limited to the criminal sphere. Several actors in the justice system highlighted the fact that, to get money, the ISF intervenes in cases that are considered civil (e.g. tenure, rent, debt repayment), commercial, and social, at the request of the plaintiff even though those matters are outside the jurisdiction of the ISF. In these cases, they resolve debt and rent-due problems by putting pressure on the other party, threatening them and placing them in detention for anywhere from one hour to several days, justified as a breach of trust with the plaintiff. Then, they act as mediator and make the detainees sign a commitment. The ISF keep a commission on the recuperated money paid to the plaintiff.

For example: A young man rented an overhead projector and brought it back to the owner because it did not work. The owner accused the renter of being responsible for breaking it, and filled out a complaint at the commissary. The police summoned the young man and kept him in detention for 24-hours until he agreed to pay for a new projector, in spite of witnesses verifying his innocence.

SELLING THE INVESTIGATION: The ISF modify the conclusions of investigations in favor of the person who pays. For example, in one pharmaceutical company's case, it became clear that one of the managers was pilfering significant amounts of medicine. To get out of prosecution, he simulated a robbery and incriminated the company's workers. The police carried out an investigation that concluded the workers were innocent. After a visit from the director of the company, the investigator modified his conclusions and the workers were fired.

TAKING A CUT OF SEIZED ASSETS: The evidence suggests that the ISF will siphon off public money and goods for personal profit. This happens in a variety of ways. For instance, ISF agents reported that when there were property seizures from a theft, it was not uncommon to see investigators split up the seized items. Victims of crime told the team that in the case of police retrieving their stolen funds the ISF would take a cut before returning any money. Citizens also reported that during their arrests, they had been relieved of any goods and money without a chance to ever recover these items.

BRIBERY IN THE COURTS

Those working in the courts also have myriad ways to abuse their power for financial gain.

FEE FOR SERVICE: To initiate a complaint or follow a case through the courts, it is necessary to pay a small fee, called: “facilitation,” “incentive,” “foundation” or “tip.” In French, one speaks of “*placing a stone on the dossier*.” If one does not place this stone, understood to be money, the case is at risk of disappearing. It is important to note that this practice is not unique to the CJS, but found across all government offices.

To ensure that the file continues to progress through the court process, additional payments are often required. It is asserted that actors in the justice department (i.e., judge and clerk) will purposely stall the dossier to induce this payment. Complainants are particularly keen to move the dossier forward if one of the parties to the case is in temporary detention at the time.

CLERKS MANIPULATE THE CASE FOR FINANCIAL GAIN: Court clerks can modify dossiers, delete sections or make entire cases disappear, depending on how much money they receive. Their position enables them to manipulate the process within a case, unlike a judge who can dismiss a case outright. However, this can still have serious consequences. For instance, a prosecutor's secretary can alter whether a person is sent to pretrial detention by simply adding an 's' to signify "sans" (i.e., without) in the right place. With this addition to the form, originally completed by the public prosecutor, it goes from reading 'warrant for committal to prison' to 'without a mandate for committal to prison;' effectively setting the person free.

Court clerks also take advantage of the ignorance of people undergoing legal proceedings by demanding fees for legal actions that do exist, but are not applicable to the case in question. This often happens to obtain an interpretation of the judgment.

SELLING OUTCOMES: With a money contribution and/or with the support of an influential contact, one can significantly affect the outcome of a criminal case. Determining the amount or the number of intermediaries that need to be involved differs according to the seriousness of the offense. A simple theft will not be settled in the same way as obtaining release for a criminal convicted of murder.

With the right amount of money, one can purchase the following from judges and officers at the Public Prosecutor's office:

- Dismissal of a dossier;
- Suspension of an investigation;
- Provisional or conditional liberation from detention;
- Detention of a person;
- A judgment in one's favor; or
- A reduced or suspended sentence.

Selling an outcome

There is one judge who is known for calling parties to a case back during the period of deliberation, in order to get money in exchange for a favorable verdict.

However, there may be a limit to the justice outcomes that can be bought; the data suggests that when the offense committed is particularly serious and comes up against negative public opinion judges may proceed according to the law. Pedophile cases were described to the team, in which magistrates explicitly refused all forms of corruption so that the perpetrators would be judged guilty—in spite of pressure from the families of the accused.

BRIBERY IN THE PRISONS

FEE FOR SERVICE: As in the courts and with police, taxes are demanded by prison guards for inmates to obtain basic needs and receive services that are rightfully theirs. For instance, a fee must be paid to receive family visitation, to have a candle, to be allowed to sleep, to submit a sentence reduction request, to have access to the yard, and to receive food. Fees can also be paid to dramatically improve one's living conditions, such as being assigned to a better block, such as the "White House." According to ex-prisoners, those who cannot pay are submitted to living conditions that amount to inhumane and degrading treatment with serious physical and psychological impacts, along with strong feelings of injustice and revenge.

Living in the "White House"

In the Ngaragba prison, there are five blocks with different services. The "White House" block is the one reserved for those with money. Detainees in this block are able to have a telephone, to obtain food from the outside, to take leave, to walk outside in the yard, to make contact with other detainees, and to enjoy better sanitary conditions and more space to sleep, depending on payments made to penitentiary officers.

OFFER OF RELEASE FOR FINANCIAL GAIN: Prisoners can purchase temporary release from guards or prison administrators in several ways. Several ex-prisoners explained that their co-detainees left prison at night to sleep at their homes, returning in the morning to be present for inspection. Others were allowed to go to the market or visit a girlfriend during the day. Doctors were also complicit with the prison administration; some were known to accept around CFA 300,000 (approximately five hundred forty-five USD) to forge a medical certificate attesting to a prisoner's chronic medical condition, thus securing their release on medical grounds. Finally, several interviewees spoke about prison guards being complicit in escapes.^{xxix}

As a consequence, people who remain in prison are those with no financial means or connections to obtain release. These are essentially people who are vulnerable or who live far from their homes and are isolated from family.

"Corruption and justice are so intertwined."

GIFTS

Citizens and criminal justice actors consistently shared views on what constituted corruption, with the exception of gift giving. Within CAR, gifts are a common part of the culture, the CJS notwithstanding. Citizens may offer gifts such as food, telephone credit or use of their car to criminal justice officials. These exchanges may occur during a criminal proceeding but are equally likely to be given in a proactive manner or after a judiciary procedure has concluded. Gifts are commonly presented to congratulate someone for something like a promotion, or by one of the parties who is satisfied with the outcome of a procedure. They are also sometimes offered for no reason at all.

It was the view held by the majority of CJS actors interviewed that gifts are a cultural practice of showing respect and therefore not an act of corruption. Whereas, a small number of high court judges who were interviewed considered such gifts to be contrary to professional ethics, as they create a sense of obligation between judge and citizen that is difficult to ignore in future interactions. All of these judges cited the example of people undergoing legal proceedings in the provinces, who loan cars to judges to drop off legal documents and then demand services from them.

3.2. FAVORITISM

Favoritism plays a key role internally within the CJS through hiring, promotions and accessing professional and potentially lucrative work placement opportunities. Favoritism is used by political elites to surround themselves with people they can trust or those who will not be opposed to the system of corruption. Favoritism is also used by department chiefs who want to enlarge their sphere of influence by granting benefits to some of their agents in the ISF.

Favoritism also appears in the relationship between CJS actors and citizens or between colleagues when these connections are used to change the outcome of a case. To a degree, this behavior – stacking offices with people loyal to you or helping those you know – is expected every time someone new obtains power. There is a Sango expression, *"It's our time,"* that is used to express the notion that another side has been benefiting from their positions - now it is our turn.

More than half of the people interviewed recognized that actors in the judicial system were guided in their actions by favoritism; be it family-based (nepotism), friends (cronyism) or colleagues (corporatism). Within this, men saw it happening more frequently than women.⁷

FAVORITISM IN PROMOTIONS, APPOINTMENTS AND PROFESSIONAL OPPORTUNITIES: In the police and justice systems, department heads habitually set up mechanisms that take ethnicity, family ties, neighborhood proximity, belonging to the same school class, or personal relationships into account. Department heads will selectively give priority assignments to subordinates that give them access to financial resources. These could be grants to study abroad, training opportunities, participation in police operations, or support for a job promotion. They refer to these as *"juicy"* or *"sweet"* opportunities, or as *"where milk and honey flow."* If someone is not a member of the boss' privileged connections, he or she may be sent to the *"arid lands"* where it is hard to find salary boosters.

In the ISF domain, the most profitable positions are at immigration and the airport. In the justice department, jurisdictions that generate the most money are those that deal with commercial and civil litigation, especially when they are in session for summary judgment. Conversely, criminal litigation is arid because no judgment fees are charged to file a complaint in criminal court; public action is initiated by the public prosecutor's office.

FAVORITISM IN DETERMINING THE OUTCOME OF A CASE: It is widely known that members of the family, ethnic group, party, or neighborhood of those who work in the courts, brigades, or precincts can obtain more favorable judgments. This form of influence also happens between colleagues in the CJS.

⁷ This may be due to different experiences of corruption based on gender, or because fewer women hold official roles, so they have fewer experiences of these dynamics.

As an illustration of an extreme case of favoritism, consider this story told during an interview: There was a gendarme who killed his wife during the night while he was drunk. He was found in his bedroom the next morning with the murder weapon and his wife's body, so that his guilt was without question. He was not placed in preventative detention, and he didn't present himself at the trial before the criminal court. His brother, a higher-ranking gendarme, took it upon himself to get him transferred somewhere else in the country, where he continues to work as a gendarme.

3.3. SEXUAL FAVORS

Women report sexual favors as the second most common form of corruption in the CJS.⁸ Demands for sexual favors by actors in the CJS occur both within the CJS and between criminal justice actors and citizens. Sexual favors are used to obtain a variety of different results such as being hired, getting a profitable assignment, or obtaining the release of the woman herself or someone close to her. Several people reported that women detainees grant sexual favors to prison guards, in order to get privileges or leave time.

Representatives from the ISF expressed how difficult it is to be a woman in the defense corps, and the harassment a woman might suffer from her superior. Refusing to go along with requests for sexual favors involves being excluded from the team, being sent to "arid lands," moral harassment, and public humiliation.

From the interviews, it was clear that sexual favors can also be offered by women in a transactional manner, not just extorted from them. In a few cases, women spoke of this means for advancement quite matter-of-factly. Men acknowledge this fact as well referencing a *"job assignment that is sexually transmitted."*

3.4. POLITICAL INTERFERENCE

A close cousin to favoritism, instances of interference by political authorities in criminal justice cases are numerous. According to these respondents, it is generally a question of receiving instructions from higher officials that are against the law or against proper administration of judicial dossiers. Most of the interviewees spoke of instructions linked to releasing or detaining prisoners.

In this context, authorities mentioned are generally the hierarchical superiors (e.g. Commissioner, Commander, Public Prosecutor, Attorney General, Minister) who can legally give instructions and influence the career of agents. The Minister of Justice and the President of the Republic have great power over the future of magistrates because they hold the positions of president and vice president of the Superior Council of the Magistrate — the body in charge of hiring and managing careers of magistrates.⁹

⁸ The vast majority of testimonials concerned sexual favors of women toward men. But in a few cases, it was reported that there are also sexual favors between men or men to older women.

⁹ This is despite the fact that independence of the judiciary is enshrined in the Constitution (art. 33, 109).

4. HOW DOES CORRUPTION HAPPEN?

Corrupt practices are not viewed in an isolated manner. They depend on the objectives and the degree of importance of these objectives to the person concerned. Such objectives could entail: obtaining a favorable verdict for a committed offense, or the release of a person suspected of murder; of being accepted to compete for the position of clerk or magistrate; of obtaining a better position or another promotion to a higher rank. All these factors taken together will determine which intermediaries will be needed and the asking price.

In Bangui, the perception is that men and women navigate this terrain equally. In other words, the majority of respondents felt that neither men nor women are more corrupt than the other. There was a counterview to this, in which a small number of interviewees felt that men were more corrupt in this context. They believed it to be the case because of men's greater need to provide for multiple wives/mistresses and the children from these families which fuels their motivation to amass more wealth.

4.1 CORRUPTION STRATEGIES

USE A MULTI-FACETED APPROACH, IF POSSIBLE: It is generally preferred to combine several forms of corruption to guarantee the achievement of one's goals. Even if favoritism can be used in a way that does not involve money changing hands, it seems to be frequently combined with making a payment. Interviewees suggested that using a single form of corruption is a weak strategy. Citizens explained that, if they used bribes without passing through intermediaries who could put pressure on the public official, the money would frequently be "eaten up," and the desired results would not be achieved. One female citizen concluded by saying, *"If you are an unknown person in this country, you are screwed."*

INTERMEDIARIES PROVIDE THE PERSONAL CONNECTION: Corrupt practices often pass through intermediaries between the concerned parties and the judge or the prosecutor in charge of a case. Intermediaries that were most often cited were members of the family, public officials in the judicial sector (e.g. secretary, clerk, judge), or community representatives (e.g. neighborhood leader, priest, imam, or others.)

In addition, at the court there are "professional" intermediaries. They go to see the parties involved and claim to be well acquainted with the judges in charge of the dossier; they propose themselves as intermediaries. Then, they negotiate arrangements with the judges and get paid a commission. In certain cases, they engage in fraud, because they keep the money without visiting the judge while hoping that justice prevails in favor of the parties who paid money.

Lawyers can also serve as intermediaries between their client and magistrates, or they can be corrupted to act against the best interests of their clients. Citizens and judges both reported that there are lawyers who accept money from the opposing party in return for sabotaging the defense of their clients, either by using delay tactics or by laying out a weak defense.

DIFFERENT STRATEGIES FOR MEN AND WOMEN: Considering the various types of corruption as strategic choices, there is a suggestion in the data that women are more likely to use sexual favors to advance their agenda, while men use financial transactions. This distinction may simply be due to the difference in assets available to use in a corrupt transaction and not

a difference in preference. In other words, women have access to less money to bribe and are less represented in the CJS, so do not have the opportunity to extort. It could also be because women tend to use more female charms (e.g., flirting, as heard in the data) to build a relationship, and this gets perceived by others to extend to the provision of sexual favors.

SEXUAL FAVORS CAN BE A FIRST OR LAST CHOICE: Sexual favors seem to be the strategy of last choice when one has neither money nor a connection. Still, there are examples where sexual favors were used from the beginning, because the public official fell in love with a woman and wanted to please her, making this the route most likely to achieve the woman's desired outcome.

4.2. FIVE MOTIVATION TACTICS

In CAR, most corruption practices in the CJS fit one of five types: indirect transactions, threatening, depriving liberty, redistributing illicit gains or promoting those who comply. While the first – indirect transactions — is basically a passive corruption leaving the corruptor more room for maneuvering, the other four are more active with the way they are implemented being left up to the official and their superiors.

INDIRECT TRANSACTIONS: In the vast majority of cases, corruption is never seen openly. It remains extremely secretive. People on trial and public officials have defined a language that lets them decide on a transaction in an indirect manner. The moment the officials receive the dossier, they will complain that they are overcome by their expenses and that these expenses will prevent them from adequately fulfilling their duties: *"I'm sick but I can't go to the doctor," "I haven't eaten breakfast," "I don't have the means to pay school fees for my children and that distracts me," "It's hot, I'm thirsty," "I have a wake to attend,"* and so on. Then the person can propose a solution by giving a little money for the doctor, the breakfast, the school fees, some juice, beer, etc. It is also possible that the conversation turns more towards the material required to function, like paper, fuel, or telephone credit. The person in court can also place money directly into the folder or pass it by hand at the moment he meets the investigating officer.

THREATENING: The ISF and magistrates can frighten people by ordering them to pay immediately. Police officers will threaten to refuse a dossier, to call the prosecutor, or to keep a detainee in police custody.

DEPRIVATION OF LIBERTY: Another way to obtain bribes is to actually put people in detention or police custody. In this case, the detainee is held hostage until someone pays. In general, family members will contribute to pay the amount demanded. If they are not able to pay, the criminal procedure goes on without a guarantee that it will be equitable. Very often, people who are not able to pay for release are not in a position to be represented by a public defender. This is why many people in prison are poor and/or isolated.

REDISTRIBUTING ILLICIT GAINS: According to higher-level ISF agents, there is a mechanism for distributing money collected by commissary and brigade agents. Agents report the money collected and the department head redistributes it to the officers. This mechanism uses reciprocal gifts that function on the basis of trust and professional, ethnic, or family liaisons. Supervisors strengthen their position over their agents by giving them opportunities to collect money who in turn must give back a portion of the money collected. The money allows the

supervisors to consolidate their positions by demonstrating real power and by the ability to give money to those above them. To illustrate: a policeman told the story about how he had succeeded in finding stolen goods that were returned to the victim. To thank the police, the victim gave an envelope of money to each unit chief. The chief then distributed money to the whole team and gave CFA 100,000 (approximately one hundred eighty USD) to the officer whose actions had determined the outcome of the investigation. According to the officer, his chief is honest, because some of the chiefs keep all the money for themselves.

On the other hand, some people told us about the syndrome of dishonest bosses in the ISF who keep all of the corruption-generated money and do not distribute anything to their collaborators. This type of attitude pushes field agents to not declare fines collected to their supervisors, and to keep fines for themselves. According to them, *"We will help ourselves to what we get in the field."*

In the courts, there seems to be no organized system like that found at the ISF level. Bribes are offered to or requested by court clerks and magistrates, but this is done in secret. Thus, it is hard to report on the exact mechanisms used.

It should also be noted that there are consequences for not participating in this redistribution. One can be confined to the "arid lands" and not benefit from juicy opportunities, if one does not "make a report or give an account" to the boss. This expression does not mean that one has to make a report on mission activities, but rather on resources generated illegally in the course of such activities and the share that has been reserved for the boss. According to a non-commissioned officer in the police department, *"A good dog is a dog that brings back game meat."*

PROMOTING THOSE WHO COMPLY WITH THE SYSTEM: Authorities reward those who conform to a system of abuse of office for personal gain. The authorities prize those who bring back money, and remove those who do not bring in enough. This results in the promotion of corrupt people into authoritative positions and reinforces collusion mechanisms and nefarious loyalty. Over time, a top-down "pyramid" system evolves, wherein everyone protects and controls each other. The person who wants to break out of this system is often excluded. To explain this system of corruption, in several instances people used the expression: *"The fish rots from the head down."* For example, a clerk had much experience, but was not named head clerk, because he had the wrong ethnicity and was not *"flexible"* enough for his superiors, saying *"I have a big mouth."* In this case, a younger man was named head clerk.

4.3. WOMEN AND MEN HAVE DIFFERENT TACTICS

Men and women are believed to participate in corruption to equal degrees. However, they appear to differ when it comes to the tactics of how they engage in these practices.¹⁰ Men are more direct while women tend to be subtler in their efforts. Taking more time to build the relationship (i.e., talk, flirt) and, when they do need to engage in corruption, women may propose withdrawing to a discreet place to keep a conversation with a judicial officer out of view.

¹⁰ It was noted by members of the research team that during the interviews women were, in general, less willing to speak on the subject of corruption. There were even female interviewees – primarily judicial actors – that either avoided the topic or refused an interview outright.

5. THE MUSLIM COMMUNITY AND CORRUPTION

Conversations about corruption in the CJS and particularly in the context of the recent Séléka/anti-Balaka conflict generated many references to the Muslim community. Two clear themes emerged about the perception of the relationship between corruption and the Muslim community.

PERCEPTION THAT CORRUPTION ORIGINATES FROM THE MUSLIM COMMUNITY. Many interviewees maintained that corrupt practices originate with Muslims. It is asserted that, as traders, Muslims want any dispute resolved as quickly as possible so they can return to business—and so are quick to offer payment. To further facilitate this, it is believed that members of the Muslim community purposely establish relationships with public officials and give gifts in order to buy complicity from people in power who they can count on if needed. People with this view state that it is common to see “grands boubous” make courtesy visits to newly-named authorities without any apparent reason. “Grand boubou” is an expression describing rich and influential people in the Muslim community, referring to the traditional Muslim robe or gown called a “boubou.” A small portion of the people who hold this view expressed real anger toward the Muslim community, holding them responsible for the country’s misfortunes.

To illustrate the perceived connection between the Muslim community and corruption, one can look at language. The term for corruption in Sango is “goro,” which means nut of the cola tree. Cola nuts are highly valued in Arab-Muslim tradition. They are given as a gift to guests as a sign of friendship and benevolence. The tradition in CAR has since been distorted, now symbolizing the purchase of a favor.

The 2013 crisis seems to have had an effect on Muslims, as several actors in the CJS noted that Muslims have reduced their interactions with officials. It is perceived that they are acting in a more discreet manner than before the crisis; there is less evidence of courting (e.g., offering gifts) policemen and high officials. One police unit chief even considered that this had resulted in a loss of income compared to before the crisis.

MUSLIMS ARE ‘CHARGED’ MORE: Muslims are charged higher “taxes” than other CAR citizens, when it comes to corrupt transactions. This discriminatory practice is derived from “a presumption of wealth” due to their trader reputation. At the same time, they are seen to be less educated, making criminal justice actors believe they are easier to trick or threaten.

The Muslim community’s willingness to pay more and pay quickly may have nothing to do with education and everything to do with cultural mores and their distrust of the CJS: a sector with almost no representation from their community. Muslims report that they will be subject to harsher treatment if arrested, based on past experience. Moreover, they perceive – and are not alone in this perception — that, if they are caught in a legal process and try to resist or argue, it will make their cases worse leading to a loss of liberty. From this perspective, the CJS is viewed as a system of oppression.

Members of the Muslim community experience being held in detention as a dishonor, and all the family members will try to wash away this insult. For instance, a Muslim man told the story of his Imam pointing out family members and preaching about not following in the footsteps of the family’s son who was currently in prison. Members of this community prefer

to flee the justice system as quickly as possible by paying the asking price with no discussion—often even offering a high price preemptively. Even if the person who is arrested is not in a position to pay, that person can count on the solidarity of the community, which will collect funds to help its member in trouble.

This practice of withdrawing themselves as quickly as possible from any criminal justice encounter has created a *de facto* impunity. In turn, this has generated a palpable frustration in other communities who see this impunity as an unearned privilege, and one that is based on the simple fact that they have (or are perceived to have) more money. As an example, a riot ensued in 2016 at Ngaragba Prison, after the provisional unjustified release of a member of the Muslim community.

6. IS THERE ANY RESISTANCE TO CORRUPTION IN THE CRIMINAL JUSTICE SYSTEM?

Criminal justice actors in Bangui report that, while rare, resistance to corruption exists (i.e., saying no to a request for assistance from a connection or not accepting a bribe.)¹¹ The rarity of its occurrence may be partially due to harsh consequences that are in store for such an individual.

6.1 WHAT MOTIVATES ONE TO RESIST?

Explanations of why someone will resist corruption centered on two themes: religion and sense of honor.

RELIGION: The most frequent explanation for resisting corruption was religion. Statements such as, corruption is a sin, fear of God’s wrath, or persuasiveness of local religious leaders were the primary reasons an individual might decide to specifically resist corruption as a practice. Interestingly, in a Christian and Muslim country (among other faiths) there was no distinction made — by the majority Christian group of respondents — about different motivations to resist as a Christian versus as a Muslim.

SENSE OF HONOR: The second most frequently mentioned motivation for resisting was to maintain a sense of honor. Honor was related to personal integrity and explained to mean resisting in order to maintain an individual’s sense of “doing the right thing.” It was also used by criminal justice actors to mean upholding the professional promise made when appointed to a public office (that is, to maintain one’s “professional honor.”)

To a lesser degree, the role of education was also raised. This could be formal education but also the way in which one was raised by their parents.

6.2 WHO AND HOW?

The team found few patterns in terms of who resists corruption. There was not a particular group or professional level in the hierarchy that appeared in the data. A little more can be

¹¹ Respondents reporting that resistance to corruption happens were far more likely to do so when speaking to an international team member than when speaking with our national team member. The team is not able to determine if this was a true bias caused by the interviewer or a consequence of the semi-structured interview methodology.

said regarding how criminal justice actors extract themselves from a corrupt transaction, but the data is still quite thin. Tactics for resisting corruption included:

- Delaying the implementation of unlawful requests by the hierarchy to see if the request would be repeated or if once the pressure had subsided the superior would forget,
- Cultivating relationships with other people of integrity and keeping a professional distance from the rest,
- Passing sensitive files to their superior to avoid being the target of pressure.

6.3. WHAT ARE THE CONSEQUENCES?

“If someone asks for a service, you are required to do it, even if it goes against your own ethics. To refuse is to put oneself in opposition and this can be dangerous.”

Consequences for those who resist corruption are severe. Isolation and marginalization from personal contacts and professional colleagues is a standard response. This is far more than a social consequence, but one that could have life-threatening consequences, because one's connections act as a safety net in this context. A few respondents even asserted that when an individual resists corruption they are putting either their own life, or the life of someone they know, at risk.

CONSEQUENCES FROM FAMILY: When familial expectations are not met (e.g., a cousin is not freed from jail, a mother-in-law's case is not thrown out) the consequences for criminal justice actors are arguably the most serious. Being marginalized by one's family means more than being socially ostracized, though it does include this as well. It means that the family no longer trusts the person and therefore will no longer be there to help them in their time of need. Moreover, losing these relationships could also mean the family intends to seek revenge.

Resisting family pressures is punished according to the impact of the refusal and as a function of the closeness of the relationship. Punishment may consist of:

- Being labeled with a bad reputation (evil, egotistical, negligent...),
- Starting malicious rumors,
- Isolation and rejection; no one comes to social events any more,
- Offensive acts like divorce, children kept away, revenge.

In a country where the government offers no protection and security is quite precarious, the family is the best insurance for sickness, unemployment, and retirement. To risk alienation is very dangerous. A police officer declared that it was better to break the law (because one can make arrangements), than to make the family turn its back on you. In this light, there is a Sango proverb that says: *“Pity the man who is alone.”*

“If we decide not to respond to family requests, we disturb the balance.”

CONSEQUENCES FROM COLLEAGUES: Professional colleagues also do not tolerate a member of their ranks who fails to conform to expectations of assistance, though consequences from the family are still more severe and pose more risk to an individual. If one has chosen to not aid someone higher in the hierarchy, the standard response is to be demoted or transferred to an undesirable or “arid” location (i.e., an assignment that does not offer potential to supplement one’s income.)

Among co-workers, the main consequence is to be cut out of networks with colleagues. This type of marginalization was often attributed to a breaking of trust, and involved rejecting someone from ‘the group’ occasionally via name-calling or negative mockery. Some of these sources noted that colleagues may go one step further and seek revenge, perhaps not immediately, but when the opportunity arises. The expression used was “*you must ‘keep your rancor’*,” meaning that, when the day comes that you need help, for example your son’s dossier comes across your colleague’s desk, you will need to watch out and make sure they don’t take revenge by manipulating your son’s case.

There is one exception to this dynamic: a criminal justice actor can opt to refuse a bribe without consequence from colleagues if the case does not touch their colleagues. The only risk in the long-term is to fail to bring back money to one’s boss and thus to take a chance of not being supported by him or her for a promotion, and to be treated, ironically, as a “*saint*.”

6.4. WHAT ARE ATTITUDES ABOUT CORRUPTION?

Though resistance is rare, that does not mean people are okay with corruption. The data suggests that the majority of people have a sense that corruption has negative effects on the peace and economic development of the country. Catholics often invoke a fear of God, because corruption is clearly identified as a sin. Conversely, not one person spoke of the advantages of corruption or of the reason it is so systemic.

Even if corruption is a pervasive system that follows clear “rules,” the majority of people refuse to be labeled as corruptors themselves. Corruption is highly disapproved of, and people prefer to keep it secret. Honor is a value that is often spoken of by public officials. In addition, a way to discredit someone is to start a rumor that he is corrupt and unworthy of trust.

The vast majority of people condemn corruption practices directly, but feel they are obligated to participate in the system. They consider themselves victims: “*I have feelings of malaise, disempowerment, and frustration*” in this system. Even if the respondent is themselves in a position of authority, they typically feel powerless and place responsibility on the shoulders of their superiors or on the economic environment. It seems that there is a dilution of responsibility. “*We are required to make do*,” is commonly stated. They mean that public officials in the CJS are also only participants when it comes to other sectors like health or education. They are required to corrupt nurses and doctors to be cared for rapidly and in good conditions. The same rules apply to education, to obtain a diploma or gain access for children.

7. WHY DOES CORRUPTION HAPPEN?

Systemic corruption becomes entrenched within a context for a number of reasons. Some of these factors drive (i.e. cause) people's participation in corruption, while other factors merely enable (i.e. facilitate) corruption to happen. Factors do not operate in isolation; rather they exist in relation to other factors, sometimes reinforcing while other times diminishing. Therefore, it is important to understand both drivers and enablers, if one wishes to comprehend the full system.

7.1. FACTORS THAT DRIVE GOVERNMENT OFFICIALS TO CONDUCT CORRUPT ACTS

THE STRUGGLE TO MAKE ENDS MEET: According to respondents, poverty amongst officials in the CJS and specifically the police, court clerks, penitentiary officers and lower-rank gendarmes is a primary driver behind corruption. Salaries for these categories are between CFA 50,000 and CFA 100,000 per month. According to most people's opinion, it is practically impossible to afford all the costs for a head of household (e.g. food, lodging, school, health, water, electricity, transport...) with this salary. A common refrain among lower ranking officials was that they were not in a position to "make ends meet."

Table 2. Common Costs of Products¹²

Bottle of beer in a regular bar:	CFA 750
Bottle of beer in an upscale bar:	CFA 1000 - 1200
One child's public school fees for one year: (including school books and stationary)	CFA 30,000
Twelve eggs:	CFA 1800
Box of powder milk:	CFA 2500

The challenge to make ends meet is made even more acute by other factors, including:

- Number of children,
- Number of households (wives),
- Number of people under one's care (parents, nephews, nieces...),
- Rising cost of living and of essential commodities, coupled with the absence of cost-of-living salary increases for several years,
- Government no longer pays for lodging for certain classes of officials because infrastructure was destroyed during the crisis.

Within the police, the Auxiliary Police experience this to the greatest degree. As unpaid members of the police, to survive, they are obligated to "tax" the population, and they have absolutely no professional conscience.

GREED AND SOCIAL STATUS: The majority of magistrates interviewed, as well as a smaller proportion of the ISF, considered that greed and the need to show one's social status were also important causes of corruption. According to them, magistrates are well-paid to lead a decent

¹² Sourced from our national research team member in Bangui, September 19 2017.

and independent life.¹³ But the expectation to show social status through wealth and the desire to have a lifestyle that goes beyond their means requires having extra financial resources. Illustrations of this greed-induced social status include ostentatious goods (e.g. vehicles, homes, jewels, clothing), and sending children overseas to study or to private schools. The majority of people insisted that having several wives¹⁴ or concubines is a cause of corruption and a sign of social status.

COLLEGIAL AND FAMILY PRESSURES: Collegial and family expectations are one of the most important factors that drive corruption and tend to amplify the drivers already mentioned: needs, greed and social status.

Family pressure: Families of public officials often exert pressure for material needs (e.g. house, car, school, financial aid.) Expressed needs can include vital essentials, but also luxury goods. Examples offered were gifts for a mistress, tuition for a private school, or even funeral costs for a deceased aunt. Pressure is justified for survival reasons, but also because members of the family want a certain social status.

Some families also request favors from public officials that are not material in nature. Requests may be for assistance with being recruited for NSAM or police and gendarme schools; an intervention on behalf of a colleague to influence a decision; a direct influence on a court decision; or to obtain someone's release from prison.

These pressures are partially derived, according to several actors in the CJS, from the perception that as a public official in the CJS, you have a lot of money and influence. Such jobs are associated with power, which contributes to status. Requests are therefore frequently made. In these cases, pressure from the family is never about carrying out corrupt actions to increase financial resources. It is a taboo, secret subject that is left to the discretion of the official; however, to ignore such requests has severe consequences.

The amount of pressure experienced by the criminal justice actor is linked to how close of a relation is involved. Effectively, when one speaks of families in CAR, they go beyond the nuclear family, and this includes grandparents and grandchildren of direct or indirect lineage. One speaks of family having "*long sleeves*:" "*The stepbrother of the stepbrother of the prosecutor is the stepbrother of the prosecutor*."

Pressure from colleagues: Within the CJS, pressure can also be exerted between colleagues because of the expectation that coworkers have an obligation to help each other. This mutual help expectation is that much stronger for those from the same class at school such as NSAM. Some magistrates explained that they are obligated to help each other because the body of the judiciary is very restricted in size and during one's career, magistrates always cross paths again. If one refuses to help a colleague, people will think: "*Today is your turn, but we will wait for our turn*."

Pressure from those affiliated to you: Besides family and colleagues, one can just as well be subjected to pressure from personal relations; from members of one's ethnic group, church, or neighborhood; or from any other community to which one belongs. Even in these cases, refusing to help can be punished by exclusion or acts of revenge. Everyone is careful about refusing, for one never knows the extent of connections of the person and his capacity for doing damage.

¹³ Entry-level magistrates earn CFA 400,000/month (roughly \$728 USD) and the salary can go up to 1.2 million (roughly \$2,185 USD) by the end of their career.

¹⁴ The civil code in CAR recognizes polygamy with a limit of four wives.

FEAR: Participating in corruption is not a voluntary act for many within the CJS. Fear plays a large role in these decisions as there can be significant consequences if one is perceived to not be sufficiently flexible. In other words, one does not have to *actively* resist corruption to suffer consequences.

Subordinates in the CJS submit to instructions given to them by higher ranking officials because of fear of administrative sanctions. There could also be “transfer-penalties” to regions that are isolated and do not allow a decent quality of life for lack of schools and sanitary infrastructure. There is also the fear that one will not be considered for promotion, if one does not conform to these established practices. Finally, there is the fear of retaliation. If a criminal justice actor does not help a colleague now, they will wait until the individual is vulnerable and take their revenge.

CRIMINAL JUSTICE ACTORS HAVE LOST THEIR PROFESSIONAL ETHIC: Actors in the CJS think that one of the main factors behind the extent of corruption is the lack of professional dedication. The gaps in professional training, the poverty of public officials, the collapse of moral values because of the crisis, greed, absence of a professional ethics code, lack of controls and consequences are all causes brought out to justify the lack of professionalism of actors in the system. According to some, young people no longer sign up for a career as a magistrate or in law enforcement as a vocation, but simply to get access to jobs with power and easy money. A magistrate summarized the thinking of public officials in the justice system by saying, “*Why work so hard for a country that doesn’t function?*”

7.2 FACTORS THAT DRIVE CITIZENS TO CORRUPT CRIMINAL JUSTICE ACTORS

TO MAKE THE CRIMINAL JUSTICE SYSTEM “WORK:” Making the CJS work, may mean in accordance to the law, but it also may mean work to an individual’s advantage. None of this happens, from a citizen perspective without some form of “contribution;” be it fiscal or influence. This creates three common reasons why citizens in judicial proceedings seek to corrupt criminal justice actors; to accelerate the process, to win and to get out.

To accelerate the legal process: Without financial incentives or the need to please someone with influence in the justice system, a dossier has little chance to advance. The slow nature of the system is exacerbated by the lack of human, logistical, and financial means available. In this situation, the one who pays the most is served the fastest. A woman animator in an NGO in the legal system summarized the system when she said, “*I think that in the justice system, there are two speeds for how it functions: fast justice for the rich people and slow justice for the poor.*”

To win a case: If one wants to win a procedure, get acquitted or gain a guilty verdict for the other party, it seems one is obligated to pay some money or else get a connection to intervene.

To get out of the CJS: There is also a tendency for citizens entangled in a legal process to prefer paying directly to get out of the system, for as one citizen says, “*There is no justice at the police [station].*” This belief is related to the sense that the CJS is a system of oppression that will as quickly result in a loss of liberty as it will in justice being served.

Another way that the CJS is put to work for people – citizens and criminal justice actors alike — but to a far lesser degree than the prior points is to get rid of a “burden.” The CJS is used

to send away people who came under one's care but for whom the caretaker can no longer provide support, such as the child of one's new spouse, elderly parents, or orphans who came to live in the household.

JEALOUSY AND REVENGE: Jealousy and revenge are driving factors behind corruption in the CJS. The CJS is thus utilized by citizens who will pay ISF or the judges so that they bring up a dossier, in order to:

- Get revenge on a person by having him locked up or "*disciplined*" by the police;
- Send a rival far away and take advantage of it by taking his wife or household, dispossessing him of his material goods, or taking away his economic livelihood. For instance, a prosecutor received CFA 100,000 (approximately one hundred eighty-two USD) from a mine boss in order to arrest artisanal miners who were competing with him.

These acts of revenge can be implemented through accusations of witchcraft which is a criminal offense in CAR. For example, in one region, farmers had a better yield than their neighbors. They were accused of sorcery just for this reason. Women suffer disproportionately in this regard, with over 50% of those in prison being held due to convictions of witchcraft.¹⁵

7.3. SOCIAL NORMS AND MENTAL MODELS

Two key influences on behavior are social norms and mental models. A mental model is the psychological state of mind in relation to an action—which is normally unconscious, automatic, or unquestioned. In this sense, a mental model is largely responsible for how people understand their environment. For example, in desperately seeking release of a relative from detention, a citizen might be operating under the notion, "My cousin could die in there, if I don't get him out!"

A social norm, on the other hand, is an unwritten rule derived from social interaction that guides behavior. A behavior is motivated by a social norm when the behavior is typical and approved within a group and non-compliance with this behavior would result in a negative sanction. For example, those engaging in acts of petty bribery might be influenced by the social norm, "This is totally normal; everybody does it." Refusal to comply, could subject a criminal justice actor to verbal abuse or other forms of social ostracism.

Social norms play a particularly important role in Bangui because of the small population. Everyone is reported to know everyone. A point aptly made by this statement: "*The brother-in-law of the prosecutor's brother-in-law is the prosecutor's brother-in-law.*" This magnifies the need to comply with expectations.

SOCIAL NORM: USE YOUR POSITION TO AIDE THOSE IN YOUR CIRCLE: When one is an actor in the CJS, it is understood that they have a duty to use their position to assist anyone within their personal or professional circle who has a legal problem. This behavior expresses the value placed on solidarity that is a result of long term exposure to a predatory CJS, lack of public good sentiment embodied by civil servants, coupled with the ongoing uncertainty in CAR and cultural mores. It would seem that this social norm is even more constraining in the hierarchical bodies like the Prosecutor's office, the police, and the gendarmes.

Moreover, a person who refuses to comply with this expected quid pro quo arrangement may be considered as "*evil*" or "*egotistical*." These labels are more than just name-calling; they

¹⁵ This figure comes from ongoing research being conducted by a member of the research team.

signal that the person has violated a critical component of the relationship and, therefore, is implicitly cast-out of the circle. The individual's family, friends and colleagues will no longer be inclined to help them or their family, if he/she encounters legal, economic, or health problems in the future. For those who violate this social norm, memories are long.

This rule has practically no exceptions. However, if the crime is too serious (such as pedophilia) or if it involves a multi-recidivist, the official can be exempt from providing assistance without incurring social sanctions. He can also prove that he did all he could to bring his weight to bear, but he did not have enough influence.

CRIMINAL JUSTICE SYSTEM SOCIAL NORM: THE CULTURE OF THE “WRITTEN ACCOUNT:” In the ISF, when a person finds a job, he must make a “written account” of his earnings for his bosses and provide a share to them as a sign of respect and gratitude for the job. The boss must also assure that the sums received are redistributed to his deputies. Refusing to submit to these rules will bring on negative rumors about the money, or the boss will be isolated at work or transferred to “arid lands.” Agents under his responsibility will no longer consider him a boss and will refuse to give him their “written account,” thus reducing his influence, for he will have a lower cash inflow.

MENTAL MODEL: JUSTICE IS ONLY FOR THE RICH AND CONNECTED: Citizens clearly have the perception that justice is only attainable for those who are wealthy and connected to the right people (i.e., through ethnicity, family, school, personal acquaintance, work etc.) This perception influences all interactions with the CJS from police to prison, as the average citizen does not believe that he/she will be treated according to the law or fairly.

MENTAL MODEL: THE FUTURE IS UNCERTAIN—GET WHAT YOU CAN NOW: A short-term perspective dominates decision making. The cycles of violence experienced by the people of CAR, punctuated by the degree of brutality in the most recent crisis and the ongoing violence up-country has given citizens and criminal justice actors alike a sense of urgency in their accumulation of assets. There is a sense that one must rebuild as fast as possible, as the future is gravely uncertain.

MUSLIM MENTAL MODEL: THE POLICE WILL DISCRIMINATE AGAINST ME: It is the sense of the research team that the history of Muslim-Christian relations in CAR has created a mental model within the Muslim community that influences all interactions with the police. “The police will discriminate against me” appears to be the pervasive assumption of the Muslim community. They do not believe the police will treat them fairly, and their resulting behavior is influenced accordingly, including making preemptive payments, seeking to develop relationships with officials, and invoking community solidarity payments to get community members out of the CJS system.

CRIMINAL JUSTICE ACTOR MENTAL MODEL: MUSLIMS ARE WILLING TO PAY MORE: There is a perception among criminal justice actors that the Muslim community is willing to pay more to avoid entanglement with the CJS. They believe this to be true because of the predominance of traders within the Muslim community and the shame within the community associated with being charged with an offense. This belief influences choices made by criminal justice actors, such as whom to approach and how much to demand, based on assumptions about the willingness and ability to pay.

7.4. ENABLERS

In addition to the deep-rooted causes of corruption, there are factors that exist in the context that facilitate abuse of power for personal gain. Though important to the continuation of the practice of corruption, these factors are distinct from the drivers (i.e. causes) of corruption.

THE ROLE OF POLITICAL AND HIERARCHICAL AUTHORITIES: For the majority of respondents, government authorities are seen to be the most corrupt class. Authorities use their connections and their money to protect themselves and to make themselves richer. By behaving in this way, the authorities present bad examples to their subordinates and to the population in general. Some people referenced the extent of corruption that was revealed during the transition government (such as a gift from Angola, purchase of a house in Paris, and others) as a particular turning point, because it had the effect of diminishing the guilt felt by lower level public officials for abusing their power for personal gain.

“If the bosses do that, we are not the ones who are going to change the country.”

THERE ARE NO CONSEQUENCES FOR BEING CORRUPT: A consequence of the degree of corruption practiced by the political elite is the total impunity for those who practice corruption in any form. Institutions that are mandated to control and inspect do not function.

Several police officers denounced the fact that there had never been any disciplinary action taken against known corrupt police officers. It would seem that the Office of the Inspector General of the police services does not have enough means to launch investigations. A possible positive development is that the police Disciplinary Council was recently reactivated and seems to be resolved to prosecute incidents of corruption.

A majority of magistrates interviewed denounced the climate of impunity in the criminal justice domain. They asserted that there have not been any dismissals of judges since the 1990s. Even in the case of inquiries led by the Inspector General that recommended serious sanctions including dismissal, they were either never approved by the Supreme Council of the Judiciary or not implemented by the Head of State. The sanctions chosen are often simple transfers to another court. On the other hand, several magistrates think that the Inspector General was relieved of his duties because he was too zealous during his investigations.

Finally, not one person interviewed could remember a citizen undergoing trial who was prosecuted for or convicted for an attempt to corrupt. The prevailing attitude is that there is complete impunity, *“so why not try it?”*

In the interviews with gendarme there was no reference to the lack of consequences for corruption or lack of sanctions for corruption behavior. The research team asserts that this is likely due to the gendarme having more solidarity and protecting its reputation as the data is clear that corruption is a common practice.

GOVERNMENT WEAKNESS: The government demonstrates several shortcomings that facilitate corruption throughout the CJS. As one high-ranking policeman noted, *“If there is no referee, it is chaos that rules.”*

Poor quality training: Training given to magistrates, police, gendarmes, and clerks is perceived as being of poor quality. It has been shortened in recent years, due to lack of financial means on the part of the government—and professionalism and ethics have been insufficiently integrated. In the case of the Officers of Judiciary Police (OJP), for instance, not all of them have been trained. According to one prosecutor, several do not grasp their role, as it often happens that the prosecutor has to dismiss cases transferred by the OJP because they deal with civil matters.

Merit-based career track does not exist: There is no policy for merit-based career advancement that allows agents to plan for advancement and salary progression. This absence pushes them to strategize to get promoted and to attempt to profit from corruption opportunities when they are at “juicy” posts. As they say, “*One never knows what the next days have in store in CAR,*” and one can always be threatened with a “transfer-penalty.” In the justice system, the principle of tenure for judges on the bench is enshrined in the constitution. However, the status of the judiciary is not respected and “transfer-penalties” are frequent. In the police department, in recent years, the five-year mandated advances in rank have not been respected and, therefore there is no increase in salaries for a good service record.

Poor investigations are wide open to manipulation: Nearly all investigations are based on oral evidence and are, therefore, more easily subject to manipulation. Several investigators think that better diversification of investigative techniques (e.g., DNA analysis, photos, fingerprints, video surveillance, autopsy, forensic science, management of evidence pieces) could reduce the cases of corruption in the CJS, because the cases would be more clear cut. A gendarme told the research team how he had started an investigation using video surveillance to catch a thief red-handed. The gendarme showed the judge the video that established the facts without question, and the judge said: “*In this case, I can’t do anything for him.*”

Lack of resources: The institutions in the CJS do not have the necessary means to exercise their missions. They are often obligated to ask citizens in proceedings for money to buy office supplies or assure the maintenance of their computer equipment and vehicles. However as described earlier, agents take advantage of these requests to ask for more than the materials’ exact costs.

IGNORANCE OF THE POPULATION: The ignorance of the population of criminal proceedings allows actors in the CJS to profit by demanding or tricking citizens into paying undue fees. Citizens feel that illiteracy and the lack of education brings people to try to corrupt officials without realizing they are committing an offense. They see it as simply the usual way to resolve a problem.

THE MASSIVE INFLUX OF INTERNATIONAL FUNDING: A few implementers believe that the massive influx of funding post-crisis provided additional incentive as there was more cash to be grabbed. According to them, public officials saw opportunities to siphon off extra financial resources from assistance programs meant to reform justice and police departments. With much of the programming including capacity building, a new way to reward loyal followers was created. Rather than send people who need the training, typically the list provided by the government would be constituted of those leadership wished to reward with the per diems associated with the training.

Furthermore, implementers question whether organizational strengthening (e.g. infrastructure, vehicles, supplies, training, and others) for certain institutions has actually increased corruption activity. When projects increase an automobile fleet without assuring maintenance and fuel, it leads to the risk of public officials increasing pressure on the public to enable them to keep the vehicles functional.

THE CULTURE OF GIFTS: Respondents suggested that the CAR culture of gift giving facilitates corruption. It is normal in the culture to give gifts, because that bears witness to friendship and respect. However, often one may seek to obtain favors from someone now or in the future. It would seem that it is more pronounced in the context of the Peulh community,¹⁶ where it is common to give gifts to the authorities. In the customary justice system, it is also necessary to give a gift to the neighborhood leader, before being allowed to present grievances and obtain a judgment from him.

8. HOW HAS THE SYSTEM OF CORRUPTION CHANGED AS A RESULT OF THE CRISIS?

Almost three quarters of the people interviewed think that the crisis that unfolded starting in 2013 had an impact on today's corruption. Some felt it reinforced existing drivers and enablers of corruption, while others asserted that the crisis generated new ones. A Justice Ministry representative summed it up well: *"Corruption is like an animal raised on hay and grain. In a period of conflict, it gets fat, and in a period of peace, it gets thin. War is a grazing land for corruption."* The alternative view is that nothing has changed because corruption has always been there.

Corruption as a cause of the crisis

During the interviews, twenty people spontaneously identified corruption as one of the causes of the crisis that confronted CAR in 2013. Three themes emerged from the explanations. First, the Muslim population experiences discrimination at the hands of the CJS. Second, the lack of impartiality in the CJS and the impunity of rich people have discouraged citizens from utilizing the justice system. Instead, they take justice into their own hands. This has created cycles of revenge that are an important factor in the widespread violence. Finally, it was asserted that CAR public officials were granting citizenship to foreigners by selling birth certificates, passports, and identity cards. The influx of foreigners who wanted access to administrative services, trade, and natural resources are felt to have been a destabilizing force in the country.

¹⁶ The Peulh community predominately practices Islam.

8.1. CRISIS REINFORCED EXISTING DRIVERS AND ENABLERS OF CORRUPTION

THE CRISIS GAVE RISE TO GREATER POVERTY WHICH CREATED MORE CORRUPTION. The crisis made it more difficult for people to meet basic needs. Many public officials confirmed that they lost their assets during the crisis; driving their families into poverty. One non-commissioned officer's story provides an illustrative example. Before the crisis, he had four homes. Now, he is renting accommodation, as all four houses were destroyed. Since the cessation of hostilities, all public officials are trying to rebuild their previously-owned possessions through all means possible. Amassing assets rapidly is important because the future is felt to be highly uncertain—a sentiment that has been learned through experiencing the repeated cycles of violence in CAR.

PEOPLE LIVING BEYOND THEIR MEANS. During the crisis, public officials were not paid for three or four months at a time. According to a small number of people, to survive, criminal justice actors were obligated to make those who used public services pay the cost. With government authority almost completely absent, some public officials were able to constitute living standards for themselves that exceeded their salaries. To maintain the higher living standard, they now are obligated to continue corrupt practices.

LOSS OF VALUES UNDERMINES INTEGRITY. Some respondents highlighted the loss of respect, integrity, and dignity resulting from the crisis, values that are associated with public service in general and with function of justice in particular. According to them, department heads especially lost these values.

8.2. NEW DRIVER: FEAR OF REPRISALS FROM ARMED GROUP MEMBERS

Respondents felt that the Séléka/anti-Balaka crisis generated a new driver in the system of corruption: fear of reprisals from armed group members. In a new form of favoritism, criminal justice actors are giving favor to members of the armed militias out of fear of reprisals against them or their families. Two examples of reprisals were given by the magistrates. One member of their group was assassinated during the crisis, as he was the target of revenge by militia members, and another was assassinated in Bria because he worked with the International Criminal Court. Though fear did already exist as a driver of corruption, it was almost exclusively fear of actions by those within the CJS. This fear involves an external actor representing a far more tangible physical threat.

9. WHAT ARE THE CONSEQUENCES OF CORRUPTION IN THE CRIMINAL JUSTICE SYSTEM?

With very few exceptions, citizens and criminal justice actors in Bangui acknowledge the negative consequences catalyzed by corruption. The majority of these consequences are significant and impact the society as a whole.

9.1 IMPUNITY FOR THOSE WHO COMMIT OFFENSES

The majority of respondents spoke clearly about the relationship between corruption and impunity for those who commit crimes. According to them, the CJS does not condemn people guilty of offenses; instead, corruption enables perpetrators to avoid punishment and facilitates escapes—so much so that the perpetrators come to the neighborhoods to “taunt” victims after they are released.

Moreover, the majority perceives that people actually prosecuted by the justice system are innocent or small-time delinquents whose only common characteristics are being poor and not knowing influential people. This contributes to the sense that the CJS is a system of oppression and that justice is for the rich. One policeman explained that there are people who are found guilty of economic crimes after embezzling public money in the millions of CFA. These people typically do not remain in prison, because they are in a position to pay off judges. On the other hand, a young boy who steals a mobile phone is condemned to three years in prison with inhumane living conditions.

These dynamics have significant negative ripple effects for communities that need to be understood as indirect consequences of corruption. Corruption generated impunity allows dangerous criminals to go free where they can continue to threaten the security of people. It increases criminality, which erodes social fabric and cohesion, which in turn enables violence. As explained further below, citizens are also more likely to take “justice” into their own hands, rather than trust the courts to punish perpetrators, resulting in frequent mob violence.

9.2. OBSTACLE TO ACCESSING JUSTICE

Another consequence of corruption that was not stated often in interviews, but which seems to correspond to reality, is that corruption creates obstacles to accessing criminal justice. Normally, criminal justice should be free, as a public service that guarantees social safety and cohesion. However, the costs associated with corruption that are demanded by the ISF and the judiciary discourage people from using the justice service.

9.3. POPULAR JUSTICE AND REVENGE

Corruption and the impunity that results from it are creating popular mistrust in the CJS. The main consequence of this lack of confidence is that citizens are no longer filing complaints and prefer to “leave it up to God” or to popular or private justice processes. As one public defender explained, “*Impunity for corruption offenses will transform victims into executioners.*”

Popular justice is an immediate, mass response to a perceived crime, as seen in instances of mob justice, which are reportedly very frequent. It also occurs when the population gets its

justice directly by “arresting” and punishing the one who commits an offense. An animator of one NGO that works with the justice system said that cement is frequently poured down the throat of thieves. Those accused of witchcraft can be buried alive.

Private justice, on the other hand, occurs when a citizen exacts revenge as a means of obtaining justice. This is a consequence of the lack of trust in the justice system that is generated by impunity enjoyed by people who can buy justice. *“It is better to get justice in the local neighborhood than to come here [to the police station or the courts] and be let down.”* In a classic example of private justice, a young man struck a child from another family in retaliation for his brother being attacked by a member of that child’s family.

This notion of private justice extends beyond those cases that would fit within a criminal justice remit as well. For instance, a portion of the ex-prisoners who were interviewed told of their intentions to get revenge on those who put them and kept them in prison.

9.4. INCREASED SOCIAL INEQUALITY

Corruption allows the richest people to get richer and to maintain power, while poor people are more and more impoverished. This was noted during interviews with members of government, businessmen, and high-ranking police and justice officials. All basic needs—food, health, and education—must be monetized, and a large part of the population is not in a position to pay for them. These inequalities, to the detriment of the public interest, create strong tensions in a country where great poverty is the norm.

The lack of development in the country, a factor that for certain people is a direct result of corruption within the government, contributes to the monetization of all public services. Embezzlement of government resources by the political class, the incompetence of officials who obtained their jobs through favoritism or by paying, the absence of legal security for investors, the lack of ethics in economic circles where taxes are not paid: these are just some of the obstacles mentioned that explain the lack of development in CAR. *“If the authorities eat up the taxes, who is paying for food in the prisons?”*

9.5. MORE CORRUPTION

Corruption in the CJS breeds more corruption. Not only in terms of scale, but also different types of corruption. The human resources process in the CJS provides a useful example. Recruitment and promotion processes that are based on favoritism or sexual favors result in unqualified people in criminal justice positions, further reinforcement of those in power, and exclusion of Muslims and other minorities. The favored individuals often do not have the capabilities (talent, education, personal orientation) to fulfill the functions of the role. As they get promoted, they, in turn, surround themselves with individuals who will be loyal—which results in still more hiring based on favoritism. Meanwhile, all of these under-skilled individuals are interacting with the population and, through ignorance of the appropriate procedures or rules or purposeful greed, are extorting citizens. In this case favoritism or sexual favors in human resources leads to greater extortion of citizens.

10. HOW DOES “CORRUPTION” IN THE CJS IMPACT THE LEGITIMACY OF CRIMINAL JUSTICE INSTITUTIONS?

The research gives special attention to the impact of corruption on the legitimacy of criminal justice institutions because of the potential links to instability and conflict.¹⁷ It is our assertion that police and courts are legitimate when citizens believe they should comply with the institutions’ authority because they view the power of these institutions and the way it is used as appropriate.

10.1. LEGITIMACY OF THE CRIMINAL CHAIN

Criminal justice institutions will not be viewed as legitimate in Bangui as long as it is widely believed that the deciding variable determining justice is connections – generally ethnicity based — and wealth. For those without these assets, compliance with the authority of these institutions will always be fear based.

10.2. WHAT IS THE IMPACT OF CORRUPTION ON THE LEGITIMACY OF THE POLICE?

***“The police are all corrupt.
I do not like the way they behave.”***

The legitimacy of police as an institution is tenuous at best. Corruption has eroded the authority of the police, instilling a deep distrust in the institution. Compliance with their authority is derived from a remaining belief in the laws of the land and a persistent fear of the consequences of disobedience; namely loss of freedom and the threat to physical safety that comes with it.

The citizen perception of persistent and collective police corruption has created a deep sense of distrust in the police as an institution. This sentiment, also acknowledged by select criminal justice actors,¹⁸ was summed up well by one citizen, *“They are all very corrupt, I cannot trust them. Whether you are right or wrong, you must give them money.”* Distrust is not equivalent to illegitimacy, however when distrust in the institution of police exists it contributes to compliance by coercion rather than voluntary acceptance of the right of the authorities to act. This crisis of confidence in the police also contributes to a negative cycle of poor policing. The population refuses to provide information or cooperate when crimes are committed and increasingly takes justice into their own hands.

¹⁷ There is a common assertion found in the statebuilding field that corruption undermines state legitimacy and in the extreme, becomes a conflict catalyst. This work used criminal justice institutions as a proxy for the state as these bodies perform core state functions. For a recent example, see “Tackling Corruption in Fragile States,” The World Bank, December 2015, <http://www.worldbank.org/en/news/feature/2015/12/15/tackling-corruption-in-fragile-states>.

¹⁸ With far more CJS actors proclaiming that “people love the police.” It is our view that these assertions were more about messaging to the researcher than an accurate reflection of their view of the police-citizen relationship.

There is a strong sense amongst citizens that they should not comply with police authority when the citizen knows the police are not respecting or manipulating the law.¹⁹ Given that a great many citizens believe that all police are corrupt, this would suggest a significant amount of noncompliance. Yet actual acts of noncompliance seem to be rare. Citizens fear the consequences of not following police demands; regardless of the legality. As one citizen stated, *"it's hard to tell them no, they risk putting you in jail."* The perception that justice is only for the rich, heightens the fear of the police, because the courts do not offer a fair process. Once caught in the CJS, citizens fear there is no way out. As such fear and ignorance are what is predominately behind citizen compliance with police authority.

Despite this, the institution of the police cannot simply be deemed illegitimate. Citizens in Bangui still believe in the authority of the police when they act in accordance with the law. Citizens accept that laws must be followed and the police are the primary face of citizen interaction with the law. How long this tenuous hold will last is questionable. For a small number of citizens, the behavior of the police has already become so egregious that they no longer view police as having a place of authority. As one gentleman stated, *"No, [they are not legitimate] because they are not perfect, they are not in a position to give us orders when they are worse than the people they arrest."*

Little difference between police- gendarmerie: Amongst some criminal justice actors and certainly within the Gendarmerie, there is a belief that Gendarmerie are a more reliable body than police. Summed up nicely by one officer, *"There is a greater respect for the Gendarmerie because the Gendarmerie is more responsible and better trained."* However, in the few instances where citizens compared the two institutions the opinion was that they behave the same when it comes to abusing their power for personal gain; despite the Gendarmerie's superior training, equipment and salary.²⁰

10.3 WHAT IS THE IMPACT OF CORRUPTION ON THE LEGITIMACY OF THE COURTS?

The courts responsible for criminal cases seem to have lost their legitimacy in the eyes of the citizens of Bangui. The perception that justice is attainable only to the rich and well-connected in the vast majority of cases creates such distrust that citizens seek to avoid the courts at all costs. This was summed up well by a resident of Bangui, *"Justice belongs to those who have money. If you do not have money. Do not dare!"*

For those who do avail of the courts there is so much distortion of the process that compliance is not due to the "rightness" of the justice process, but rather because the outcome has been pre-determined (i.e. purchased or pressured.) For those who get caught into the criminal justice system by actually perpetuating a crime, and do not have the funds to buy their way out, their compliance to court orders is due to limited other options and fear of greater restrictions of freedom. There is no voluntary compliance.

19 In their responses citizens often couched their answer in whether or not they know the police officer is outside of the law. Given the general ignorance of the population it is fair to assume that much manipulation by police goes unnoticed by citizens.

20 The analysis attempted to tease apart differences in perceptions of legitimacy between the Police and the Gendarmerie, however insufficient data was collected to draw firm conclusions.

11. PROGRAMMING TO DIMINISH CORRUPTION

Knowing how the system of corruption functions in the CJS is step one in setting up strategic programming responses. Step two is knowing what else is being done to diminish corruption to avoid redundancy, target strategic gaps or identify necessary collaborations. In this section, the research team describes the three main CJS programs, their theories of change and reflects on the absence of anti-corruption in these programs and on the donor radar.

11.1 WHAT ANTI-CORRUPTION PROGRAMS ARE OPERATING IN THE CRIMINAL JUSTICE SYSTEM?

The international community does not support programming that explicitly targets corruption in the CJS; nor has it since the end of the recent crisis. There are also no agencies present—national or international—with the primary mandate to fight corruption.

There are, however, significant investments being made in the CJS by the United States via the United Nations (UN), the European Union (EU) and France.²¹ This includes three large scale efforts: the UN Joint Program, the EU's Rehabilitation of the Justice and Police Sector Program, and the French government's provision of technical assistance to government ministries.

1. *The UN Joint Program* initially ran from 2014 – 2017, and was recently renewed until 2020. Covering the full criminal justice spectrum, it is a large-scale program jointly operated by UNDP and MINUSCA. The effort is organized into five components:

- Police and gendarmerie
- Justice sector reform
- Corrections (penitentiary reform)
- Sexual-based violence
- Community security

The intent is to reinforce all parts of the system, through the building of infrastructure, provision of equipment and capacity building. To date, the program operates almost exclusively in Bangui, with some very recent exceptions (e.g., ninety police officers have been deployed to Bambari.) Funded predominately by the US State Department/Bureau of International Narcotics and Law Enforcement, the original three-year budget was approximately 14 million US dollars.

2. *The Rehabilitation of the Justice and Police Sector Program* started in 2010 and is funded by the European Development Fund. It has two components: justice and corrections; though the focus is on the justice work. The Justice component seeks to consolidate the rule of law and modernize the justice system through strengthening capacity of judicial actors and supporting institutions, primarily the Ministry of Justice (e.g., improved work conditions.) The latter includes infrastructure projects, such as building court houses, provision of computer equipment and furniture. Programming is almost exclusively limited to Bangui.

21 Anti-corruption and criminal justice reform programming was reviewed at the level of in-country donors, namely the United States, European Union (specifically the European Development Fund), France, as well as their UN partners – UNDP and MINUSCA. The focus on the international community efforts rather than nationally-initiated work was determined based on quantity and scale of efforts, and ability to access information and verify data. Moreover the research sought to understand current staff understandings as they are the decision-makers at this time.

3. *The French Government's* support is aimed at good governance which includes work on rule of law, justice and redeployment of state authority, among other areas. Their primary tool is the deployment of Technical Assistants within relevant Ministries to advise and design small projects. For instance, two people are assigned to the Ministry of Interior, one addressing civilian administration and one policeman concerned with immigration and police issues. They also support some targeted capacity building in the justice sector, including the Special Court for CAR and the restructuring of the National School of Administration and Magistrates.

Fighting corruption is not an articulated objective within these programs. However, individuals working in these programs asserted that there are a few ongoing activities that could have anti-corruption side-effects, such as the ethics modules in the new police training course or MINUSCA's support for recruitment of five hundred new police and gendarmes. The Special Court, that is currently being established, was also referenced in this light. It was explained that the theory of change behind the Special Court is for it to be a role model for the rest of the CJS. If they can get the Special Court to run cleanly, it was asserted, then it will show that justice can be achieved without corruption.

Looking to the future, actors also cited a few efforts that could be considered de-facto anti-corruption work. The plan to build judicial independence or the intention to create an Internal Affairs office in the police were given as two such examples.

There are also a handful of NGOs implementing programs in the CJS, but again, these do not directly engage corruption. A few of these efforts include:

- *ABA ROLI* has set up legal aid clinics to primarily, but not exclusively, respond to sexual violence committed as part of the conflict.
- *Lawyers Without Borders* is conducting research on the formal and informal mechanisms citizens use to access justice.
- *The Association of Women Lawyers* provides legal counsel to citizens.

VERY FEW GOVERNMENT LED ANTI-CORRUPTION EFFORTS. The only explicit anti-corruption government-initiated effort mentioned in the course of this research was the High Authority for Good Governance.²² Though people expressed hope regarding the potential of the High Authority, there is a history in CAR of establishing structures that have no teeth. Most relevant to the High Authority was the Committee for the Fight Against Corruption. This committee, under the office of the Prime Minister, was established in 2008 with a mandate to find solutions to corruption. Composed of representatives of ministries and civil society, the committee started work, but never received the logistical and financial resources needed to function. They attempted to draft a law related to illicit enrichment, but with no action taken by the Prime Minister, the law was not presented to Parliament.

Three government initiatives were mentioned in the interviews as relevant to fighting corruption in the CJS, though similar to the international community efforts they were not set up as anti-corruption efforts. Starting with work that is underway as part of the National Recovery and Peacebuilding Plan,^{xxx} the government is working with the support of the international community to review human resources in the police and gendarmerie. Since employment

²² The High Authority for Good Governance is a new body enshrined in the Constitution. To date the government has appointed its members.

records were destroyed during the recent crisis, all members of these institutions are being reviewed through a vetting-like process to create an accurate staffing list. It is possible that this effort could advance the fight against corruption through the elimination of ghost workers.

Also under the auspice of the National Peace and Reconciliation Plan, the government intends to institute measures to support a more independent justice system. State supported legal aid, judicial inquiries, and citizen complaint mechanisms are examples of initiatives the Plan hopes to take forward to make the justice system more credible and accessible.

Finally, in the police a Disciplinary Council has started to function, focusing on insubordination, and influence peddling. To date, four cases have been reviewed. Here again, there was concern raised about the effectiveness of such councils in CAR, because of the history of similar mechanisms deciding on a sanction for an infraction, but such decisions are not implemented.

11.2 WHAT IS BEHIND THE LACK OF ATTENTION TO CORRUPTION IN THIS PROGRAMMING?

Several interdependent factors led to the international community programming not addressing corruption. The theories of change do not respond to corruption factors; the team highly suspects the omission comes from a gap in the original analyses. This, coupled with an apolitical attitude on the part of donors with no appetite to engage in the overt politics that anti-corruption would require, appears to have created blinders that keeps the topic off of the international community radar.

CRIMINAL JUSTICE REFORM THEORIES OF CHANGE IGNORE CORRUPTION. In terms of the current three dominant programs, the absence of explicit corruption fighting initiatives appears to come from their original problem analyses and theories of change.²³ Developed up to seven years ago, the theories of change push the issue of corruption to a later stage in the peace-building/reconstruction process. Based on descriptions from the field, the most common theory of change claimed that first the CJS must be rebuilt, then focus on getting it running, and then address the quality of those processes; at which point—in theory—an anti-corruption effort could be initiated. The second theory of change asserted that by giving judicial actors the appropriate tools and skills, they will do better work. These theories are fundamentally flawed, because they do not take into account the role that corruption plays in the dysfunction of the CJS. A more thorough review of the theories of change can be found in the next section.

DONORS HAVE LITTLE UNDERSTANDING OF HOW CORRUPTION IS DISTORTING THE CRIMINAL JUSTICE SYSTEM. As of the summer of 2017, donors in Bangui showed no signs of changing the priority of anti-corruption within CJS programming. With the exception of the Special Court vulnerability assessment, which names corruption as a threat, corruption in the CJS has not managed to make it onto the agenda of these donors for a number of reasons. Understandably, the ongoing violence and instability in the country consumes significant time and policy attention. More specific to the issue of corruption, though, are the blinders that have resulted from the original theories of change. A surprising number of the internationals working on CJS reform had little to no knowledge about how corruption is distorting the CJS and, importantly, all efforts at reform.²⁴

²³ In this context, theories of change are grand overarching strategies that explain how and why change will happen.

²⁴ It is important to acknowledge that, in many instances, it did not take long in the course of an interview for the blinders to start to open up.

The lack of knowledge could be attributed partially to what was described as a complicated interaction between the donor community and the political elite in Bangui—likely an unintended byproduct of the extensive local experience dealing with the international community. Donor representatives stated that their national counterparts take pains to put forth a professional image and do not mention issues like corruption. This comment by a senior member of the international community sums it up nicely, *“The elites are smart here, they know not to mention certain things to the international community.”*

The dynamic behind this particular knowledge gap is exacerbated when donors use politically-blind processes to set priorities. Two of the donors interviewed referenced the use of needs assessments, which makes perfect sense, given the theories of change. If you have to rebuild, you need to know what exists. As one donor representative explained, *“It is the beneficiaries who must decide what is good for them, and we are there to help meet their needs.”* Another explained that they used a needs assessment that focused on the number of police, number of units, equipment, etc. to identify the needs in the police. While these are reasonable appraisal methods for humanitarian or basic development programming, these apolitical processes, when coupled with a political elite who wishes to maintain the status quo of influence peddling, result in priorities that have been established in a vacuum, with no real sense of what it will take to respond to the issues at hand effectively. Moreover, technical support (e.g., the provision of cars, uniforms or computers) can unintentionally reinforce the corruption dynamic as the nuisance capacity (i.e. their ability to trick or threaten citizens) of CJS actors is increased.

Lack of knowledge is not the only reason corruption is not on the donor agenda. For a few, it was a prioritization issue. They acknowledged that corruption was happening in the CJS, but there were so many other more pressing issues, like security that they felt needed to be addressed first. This suggests an artificial separation of issues, that removes corruption in the CJS from the security situation. The research presented in this report demonstrates that, without tackling corruption in the police, citizen security will always be threatened, and without tackling corruption in the courts, the grievances will persist that can catalyze conflict.

NO APPETITE EXISTS TO TACKLE CORRUPTION IN THE CRIMINAL JUSTICE SECTOR. Another factor keeping corruption in the CJS off the radar is the lack of appetite in the donor community for the issue. The majority of respondents offered realpolitik style explanations. If a program tried to tackle corruption, they feel it would undermine the program altogether. As one UN national staff person explained, *“If you work in the criminal chain, and if you touch it [corruption], it will discourage people from building their capacity.”* This means that people will not participate in capacity building programs if they fear they are going to be pressed on corruption. Given the theories of change of current justice programming in Bangui, this position makes sense: give tools and skills and good work will follow, or build first then worry about function. Unfortunately, as the theories of change are flawed, so too is this position.

This lack of appetite has caused, or been caused by, the notion that it is not the role of the international community in Bangui to tackle corruption, but rather the role of local civil society. Though heard in a variety of quarters, one individual summed it up nicely, *“As international partners, it is not our job to fight corruption. We are there to support people. We can support a national effort. We can support NGOs.”*

It must be acknowledged that this opinion is in the interest of the donor community. Engaging with corruption requires donors to step into the uncomfortable arena of sovereignty,

which requires flexibility, political competence, and a willingness to deviate from budget delivery timetables. A purely technical approach to a political problem, as is currently being implemented, is more palatable, as it is less likely to bottleneck their internal processes.

In addition, expecting local civil society to tackle corruption in the criminal justice sector directly contradicts much of what is known about how CAR society functions. It was repeatedly stated that everyone knows everyone (i.e., they say there is one degree of separation in CAR, not seven), that revenge and jealousy are rampant, and that people get by based on who they know. When these dynamics are combined with the extreme volatility and insecurity of CAR in the summer of 2017, local actors become vulnerable to existing power dynamics. It would be dangerous—and thus highly unlikely—for a local organization to take the lead in any authentic fight against corruption.

DONORS FEAR COSTS OF BRINGING UP CORRUPTION WITH THE CAR GOVERNMENT. When pressed on why the government is not being confronted with the levels of corruption in the system, donors explained they could not exert pressure on the political actors who are benefiting from these illicit systems because they first need to build trust. One donor representative explained, *“We can’t touch this point directly with them [the government]. We need to build a trust relationship first.”* The notion that prioritizing anti-corruption would break the trust relationship between donors and the government was by far the most common explanation behind the lack of appetite for tackling the issue.

Given that the international community has been in CAR for over twenty years; this argument begs the question: how long does it take to build a trust relationship? Moreover, how is a trust relationship ever possible, if one actor is abusing their power for personal gain on issues salient to the relationship?

12. WHAT MIGHT WORK IN TERMS OF ANTI-CORRUPTION?

The original intention behind this research was to provide a set of programming options to diminish corruption in the CJS, for the consideration of the international community. Grounded in the research, these options were to be derived from “out of the box” thinking through the engagement of professionals from different sectors, such as positive deviance, social norm change, negotiation, and peacebuilding, along with criminal justice reform experts. The project’s donor unexpectedly cancelled this portion of the project after the field data collection. As a result, what follows are the research findings from the field rather than anti-corruption programming options generated by a wider range of experts.

12.1. ARE THERE ANY “BRIGHT SPOTS”?

In looking for programming options that could effectively diminish corruption, one strategy is to look for “bright spots” relevant to fighting corruption. Bright spots are factors in the context that represent elements that can be built upon or expanded to generate a positive contribution to the system. In this case bright spots would be things in the CJS in Bangui that are positively contributing to criminal justice. They are important because they offer a potential leverage point—where a small change could result in a larger shift in the system.

When applied to corruption, they are often factors that are functioning against the prevailing trends; in this case that would be elements in the CJS operating in a way that does not abuse power or resists efforts to abuse power. In this research, there were no solid trends in the data that suggested the existence of any bright spots pertinent to corruption.

There was the faint hint of evidence that certain people in the system try to operate with integrity. However, unlike in the other two test countries where this methodology was used, where CJS actors who operate with integrity were named by many people, in this research it happened in only one case.

12.2. IDEAS FROM THE GROUND

People on the ground were not optimistic about the possibility of change. The systemic nature of the problem, extending well beyond the CJS, overwhelms people. When specifically asked what should be done, there were two clear themes in the responses about how to diminish corruption in the CJS: increased punishment and development of political will to tackle corruption.

HARsher AND CONSISTENTLY APPLIED PUNISHMENT FOR ACTS OF CORRUPTION. Not surprisingly, given the population interviewed in this study, the most frequently mentioned solution to corruption in the CJS concerned punishment; namely criminal prosecution. Respondents wanted better and sometimes more severe laws that were consistently applied to anyone caught abusing power for personal gain.

THE HIGHEST LEVELS OF LEADERSHIP MUST DEMONSTRATE POLITICAL WILL TO STOP CORRUPTION. It was argued that leadership must take two forms on this issue. First, they must lead by example, showing government officials and citizens alike that they have changed their behavior. Directly related to the desire for punishment is the second leadership task: the political will to enforce sanctions against those who do abuse their power for personal gain.

These responses are interesting in two ways. First, they are classic anti-corruption responses that are derived from a “principal-agent” approach to fighting corruption that originated from Western liberal democracies. The principal-agent approach assumes that leadership will take action against corruption if they are given sufficient information about abuse of power and the tools to respond. The critical flaw in this logic is that it assumes that the leadership (i.e., the principal) is principled, meaning he/she is someone who adheres to the law and works for the public good. When the principal is a participant in the corrupt system, none of these approaches, on their own, are an effective deterrent to corruption.^{xxx} The principal-agent approach has proven to be particularly ineffective when implemented in fragile states.^{xxxii} One member of the international community who has been in Bangui for many years and does not work on CJS reform acknowledged this point, *“It takes a total paradigm shift. Old recipes should no longer be used, such as training, awareness-raising or sanctions.”*

Second, the responses ring true to the experience and environment of the group who gave them: actors in the criminal justice sector. To differing degrees, this sector is shaped by strict hierarchies and command-and-control structures. While it is true that these environmental factors need to be kept in mind when thinking of responses to corruption, these alone will not lead to change.

Three additional themes arose from the data in response to the question regarding what should be done. These were offered less often than punishment and political will.

- Human resources need to be merit based. Career advancement needs to be based on good service and those who have been proven to abuse power for personal gain should not be rewarded with promotions. Recruitment needs to be transparent and be open to all ethnicities and communities.
- The institution of justice must become independent from the Ministry of Justice and political elites.
- A code of ethics must be developed that is understood and followed by all actors in the CJS.

Finally, no discussion of possible responses to corruption in the CJS in a fragile context can be complete without visiting the salary and equipment issues.

GETTING CJS ACTORS PAID IS NECESSARY, BUT WILL NOT END CORRUPTION IN THE CJS. It is clear that those working in the CJS need to receive adequate remuneration for their work in a consistent manner if there is any chance of diminishing bribery and extortion. It was also clear that salaries alone would not eradicate corruption (a point corroborated by research and failed anti-corruption work in many places.)^{xxxiii} Amongst CJS actors themselves there were equal numbers who felt increased wages would decrease the prevalence of bribery/extortion (though not eradicate it) as there were who felt better salaries would not impact corruption at all.

HAVING APPROPRIATE EQUIPMENT MAY BE HELPFUL, BUT IS CLEARLY NOT A CRITICAL SOLUTION. In a few instances the issue of equipment was raised in response to what should be done about corruption, but it only came up in relation to the police. In these instances, it was raised more as an afterthought and not as a critical solution to diminish corruption. Moreover, careful thought needs to be given to how the provision of better equipment doesn't lead to more efficient abuse of power.

Looking Forward

“The decisions are already made and when you are in court it is actually theater.”

KEY INFORMANT

The systems analysis and research findings all prompt the question: how does one contribute to the creation of a merit-based criminal justice system in CAR that provides equal access to justice? The team analyzed the existing criminal justice reform programs, as a first step to answering this question, to assess the plausibility of their theories of change—the set of underlying assumptions about how any particular approach will be able to create and sustain positive change. Programs that operate under an implausible theory of change are unlikely to generate durable results. Following this initial analysis, the team developed a set of recommendations, starting with the least that must be done.

WHY CORRUPTION WILL MAKE EXISTING CRIMINAL JUSTICE REFORM PROGRAMMING FAIL

The existing criminal justice reform programs uniformly omit anti-corruption initiatives—which is not only important for those who care about fighting corruption. This research shows that the system of corruption is so pervasive and intrinsic to the way criminal justice is provided, no reform is possible within the CJS without addressing corruption.

By reviewing the prevailing theories of change against the systems map, it becomes clear that the theories contain assumptions that are flawed in this context. Theories based on flawed assumptions are far less plausible and therefore less likely to succeed; meaning they undermine the programs’ ability to reform how criminal justice functions.

The first theory of change asserts that by providing improved tools and skills, criminal justice actors will do better. This reduces poor performance in the CJS to two simple factors: insufficient equipment and poor skills. The systems map shows that these factors do play a role in distorting performance. However, they alone do not have the ability to alter the dynamic in which they are found, (*D5: Inadequate resources enable demands for payments* in systems map) let alone effect demands for payment.

Two Theories of Change

1. If they have better tools & skills, criminal justice actors will perform better.
2. If we rebuild it, make it run, we can work on quality later.

Demands for payment are driven by several far stronger drivers and enablers. Drivers such as the responsibility to help one’s family and the negative role modeling by authorities that perpetuates impunity will not be influenced by skills and tools. Further, the theory of change does not touch the role that citizens play in the system, which is significant.

The second common theory of change suggests a phased approach: first rebuild it and make it run, then work on quality later. This theory focuses, in the first two phases, on the same dynamic (*D5: Inadequate resources enable demands for payments*) in the corruption system. Rebuilding provides new criminal justice infrastructure (court houses) and equipment (boots,

vehicles) which are challenges that need attention. However this focus is insufficient because the primary actors are all the same as from before the crisis. As one implementer reflected, *"We are reactivating something, the same incentive system."* This means that criminal justice actors bring their prior experiences and practices with extortion and favoritism to bear in the reconstructed environment. This theory, therefore, suffers the same challenge as the previous one, as it only touches on a limited aspect of the system and one that is insufficiently powerful to influence the overall functioning of the CJS. In other words, there may be a new courthouse with shiny new police cruisers outside and court sessions in full swing, but if these processes are only available to the wealthy and/or well-connected, you cannot consider the system "running" or, more importantly, offering access to justice for all.

In theory, the final phase focusing on quality (better access, fair and equal treatment, hiring and advancement by merit, etc.) could turn its attention to other factors that drive or enable corruption. However, by leaving this to the end stages of programming the problem will only become that much more intractable. Every system has a "function," which is one of the reasons why systems show remarkable resiliency to external shocks or efforts to change them (e.g., reform programs.) Systems work to regain their balance to continue to meet their "purpose." The system of corruption in the CJS in Bangui serves powerful purposes for different actors: ensuring basic survival for lower ranks and the poor while maintaining extreme inequalities and the privileges of the powerful. By waiting until the CJS is up and running, the system will be at full strength—in support of these clearly socially negative purposes. That is why addressing the critical factors that drive and enable corruption *now* is so important; the system is still in a state of flux and thus, for the moment, less resilient and more susceptible to change.

It is the understanding of the research team that the existing CJS reform programs are intended to complement each other. So the research team also considered whether they could affect significant change when viewed holistically. For the sake of argument, let's assume that all the work is done really well and achieves the intended outcomes, resulting in better quality recruits coming into the system, more resources, better equipment, and higher value training for existing personnel, prompting a significant reduction in ignorance of the rules and procedures. Does this achievement alter the way criminal justice is experienced by citizens in Bangui? Likely not in the way it is intended.

The new recruits will still be coming into a system that is dominated by loyalty-based networks. There is no suggestion that these networks will be changed; therefore, it is reasonable to assume they will continue to exert their influence in at least two ways. First, allocation of positions – "arid" versus "juicy" – will still be used to reward those who conform to existing practices—a key driver of demands for payment. Second, favoritism will dictate who gets sent to trainings that offer incentives (a per diem or trip to a foreign location); thereby failing to provide those most in need of the advanced education but rather those best connected.

The additional concern with the focus of the current efforts is that they will unintentionally exacerbate existing corruption patterns. Injecting more resources into the system provides more goods and rewards to be allocated according to the same corrupt rules. New vehicles and computers are likely to disappear into the hands of those who have the power to expropriate them. As seen in other settings around the world, providing additional equipment and training can simply improve the ability of criminal justice actors to threaten/extort citizens and to manipulate judgements for those able to pay. In other words, by only focusing on the material aspects within a wider system, those increased assets will likely make the practice of corruption more efficient and effective.

Recommendations

Reflection on the research findings and systems analysis has resulted in two recommended courses of action for the international community working in the criminal justice space. The first recommendation represents what the team views as the minimum that must be done by those actors working on justice reform. The second recommendation is more advanced in scope and scale, with corresponding increased potential for real impact on access to justice for the citizens of Bangui. To truly give the CJS a chance at becoming a merit-based, effective process, both would need to be actioned.

1 MAKE PROGRAMMING CORRUPTION-SENSITIVE: In alignment with the tenets of ‘do no harm’, current donors and implementers are urged to look at existing programming to identify ways to stop exacerbating corruption in the CJS. A systematic review of the possible interactions between programming and corruption should be informed by the frameworks available in the conflict-sensitivity realm.^{xxxiv}

2 REDESIGN CRIMINAL JUSTICE REFORM PROGRAMS WITH THE SUPPORT OF POLITICAL ENGAGEMENT: To effect basic changes in performance of the CJS, develop theories of change that respond to the realities of what drives corrupt patterns of behavior. As the evidence mounts around what does not work in anti-corruption, creative thinking will need to be applied that draws from other social change fields in order to develop plausible responses. These programs will likely need to be multi-dimensional and reach outside of the strict confines of the criminal justice sector.

To be effective, these multi-faceted programs will need to be strategically buttressed with high-level political engagement by the donor community. It is increasingly understood that “... political factors are usually more important in determining developmental impact than the scale of aid funding or the technical quality of programming.”^{xxxv} This is never truer than when tackling corruption. To potentially alter the system of corruption, key donors working on justice reform should develop a coordinated strategy to target the factors at the highest level of government that drive and enable corruption.

Conclusion

“Sexual favors are frequent and can occur at different levels.”

MALE, LAWYER INTERVIEWEE

The abuse of power for personal gain (i.e. corruption) is the standard operating practice in the CJS, with rare exceptions. The pervasiveness of the practice means it is not a number of isolated choices, but a system. When caught in the CJS, citizens use bribery, sexual favors, favoritism, political interference, or any combination thereof in an attempt to disentangle themselves from a process that is distrusted and viewed to be predatory against the poor. From the vantage point of the average citizen, justice is more likely to be achieved when the CJS is not involved and mob justice or revenge can run their course.

Criminal justice actors are as much predators as they are prey in this system. They are driven to corrupt practices by the struggle to make ends meet, greed, desire for social status, and collegial and family pressures; all of which are buttressed by mental models and social norms that make corrupt choices rational decisions. They are also caught in a web of loyalty-based arrangements that dictate access to professional opportunities, assignments and promotion. Refusing a request for help, in this context, is not done lightly. The fear of the professional and personal consequence of not aiding one's circle is palpable; consequences range from being professionally sidelined to revenge by one's own family.

The systemic corruption that distorts the CJS in Bangui is not new, however the recent Séléka/anti-Balaka crisis has had an effect similar to adding fuel to a flame. By exacerbating poverty, increasing the number of scores to settle, eroding community and professional values and introducing new armed groups, corruption has metastasized; further making criminal justice a system of oppression.

With current CJS reform programming ignoring the role corruption plays in distorting criminal justice, the prospects of a merit-based, effective CJS in the foreseeable future are not good. Worse yet is the possible exacerbation by corruption-blind engagements, making the millions of dollars of investment not just ineffective, but potentially a means to a negative end.

The international community working on criminal justice reform in Bangui needs to take pause, reassess their theories of change and at minimum commit to doing no harm. Better, would be a coordinated, strategic engagement by the primary donors in CAR to step into the political fray: a necessary action for reducing corruption. As part of this engagement, reviewing the design of existing programs so that they respond to corruption as a key driving factor behind criminal justice distortion might, collectively, provide these institutions a chance to re-build themselves in the future.

Appendix A: Research Methodology

This research used qualitative methodology because of the sensitivity of the topic and nuance necessary to deliver a systems analysis. The data collection team consisted of two international and one national member; with experience working in French and Sango, knowledge of the criminal justice sector, Central African Republic experience, and qualitative research expertise. The team was supported by a senior member of the CJS in Bangui as an advisor, and two CDA staff members.

The research team operated according to the following guiding principles:

- Ensure that conclusions are based on reliable data,
- Show respect for different voices and perspectives throughout the team's process, framing and conclusions,
- Remain sensitive to gender dynamics.

The team began the research design process by completing a thorough literature review encompassing corruption, justice reform, the recent conflict and the state of the CJS in CAR. As the third iteration of a methodology, this review influenced how the process was tailored to the CAR context.

DATA COLLECTION: In the field, data was gathered through one hundred fifteen interviews (individual and small group) and three focus groups. Of one hundred fifteen key informant interviews: sixty-four were CJS actors, thirty-six citizens and fifteen implementers and donors [Table 1.] Of the key informants, thirty-nine women and seventy-six men were interviewed and eighty-three self-identified as Christian, five Muslim, and one Animist. twenty-six people opted not to answer or were not asked [Table 2.]

Table 1. Key Informant Interview Categories

CJS Actor	Citizen	Implementers/Donors	Total
64	36	15	115

Table 2. Religious Background of Key Informants

Christian	Muslim	Animist	Unknown
83	5	1	26

Of the three focus groups, one was with police/gendarmerie (three participants) and two with citizens (eight participants total.) The citizens and police in the focus group discussions were randomly selected, and were not included in key informant interviews figures.

In terms of sampling, the team used a purposive sampling approach; this is common in qualitative research, as it is used to identify and select information-rich respondents. Within this, different approaches were used to recruit key informants based on what type of information was needed:

- Purposeful sampling by position: the team looked for individuals based on (1) their professional position within the CJS and/or (2) their specific experience as someone with a key perspective on the system of corruption. CJS actors and those who understand how the system of corruption works were "key people" for this research. This applied to:

- Government/civil servants,
- Donors/Implementers,
- Criminal Justice officials (police, courts, corrections).

To account for gaps in knowledge the team also did snowball sampling in the field and used trusted intermediaries as a way of accessing individuals and gaining authentic answers.

- Purposeful sampling by “average experience:” sampling was done to find individuals that represented the “average experience” for CJS actors or citizens that might frequently interact with the criminal justice system.
 - Citizens: these are people who have interacted with the criminal justice sector in the last two years either as violators of laws or as victims of a crime.
 - Police officers: these are people with different ranks and responsibilities who represent the average for their role.
 - Former prisoners

ANALYSIS: A three-day participatory analysis session was held with five of six team members to identify primary themes in the data. These themes were then systematically identified in the data using Nvivo qualitative coding software. Time was also spent identifying how driving factors drove the greater system of corruption in the CJS, and drafting an initial version of the corruption systems map. The team considered doing a participatory exercise to identify factors supporting and diminishing corruption in the field, but opted against it owing to concerns that the discussion would become confrontational due to the hierarchy within the CJS in Bangui.

LIMITATIONS

This research needs to be understood in the context of its limitations.

- *Data only collected in Bangui due to uncertainty caused by insecurity:* In preparing for the data collection, violent flare-ups were occurring with increasing frequency throughout CAR and particularly in the north. Unfortunately, the area of violence included the only other major town that had CJS infrastructure, making it inaccessible. After consultation with several institutions on the ground it was determined that the situation upcountry was too volatile to safely access. Therefore, the research focused only on the capital of Bangui.
- *Working in three languages:* Data was collected in French, Sango and English and then translated. In any translation, one runs the risk of loss of nuance.
- *A limited engagement with the corrections sector:* The team understood, while designing the research project, that there is a corruption system within the prisons themselves, but felt that exploring those dynamics would broaden the scope beyond project resources. The project was thus limited to only understanding corruption dynamics during entrance/exit from prisons.
- *A full gender analysis was not conducted:* Due to budgetary constraints, the analysis was limited to looking at differences in perspectives of men and women; it was not possible to conduct a full gender analysis. Further there are far less women in official positions, so equal numbers were not possible to recruit.
- *Muslim community difficult to access:* Every effort was made to access the Muslim community in order to ensure their voice was represented in this analysis. This proved difficult because there are almost no Muslims in the CJS and obtaining consent for interviews from Muslim citizens proved very difficult.

ABOUT THE AUTHORS

CHEYANNE SCHARBATKE-CHURCH is the Co-Director of the Corruption, Justice and Legitimacy Project, jointly housed at The Fletcher School, Tufts University and CDA. As a Professor of Practice, she teaches courses in design, monitoring and evaluation in fragile and conflict affected contexts. She has held positions with CDA, Search for Common Ground and INCORE. In 2009 Cheyanne founded Besa; a social enterprise committed to catalyzing significant change on strategic issues in places experiencing conflict and structural or overt physical violence.

LADISLAS DE COSTER is an international consultant specializing in the reform of justice and the police in post-conflict contexts. For the past fifteen years, he has led projects for Lawyers Without Borders, Belgian Technical Cooperation, and UNDP to strengthen the criminal justice system in the DRC, Burundi, and CAR. In 2017, Ladislav launched c-lever.org, a social enterprise that focuses on levers of change.

KIELY BARNARD-WEBSTER is a Program Manager at CDA Collaborative Learning Projects, working on innovative approaches to tackling corruption in the DRC. She has experience working in Rwanda, Burundi and the DRC. She contributes to several different peacebuilding effectiveness and conflict sensitivity projects at CDA, and is currently working on Stopping as Success - an endeavor spurred by CDA's work on listening and feedback loops. She supports CDA's office in Myanmar and makes an effort to apply gender analysis throughout her work.

KESSY MARTINE EKOMO-SOIGNET is a community leader, peacebuilding practitioner and founder of URU, a youth led organization leading projects to increase effective engagement of and support for youth in locally-led conflict prevention and reconciliation efforts in CAR. Kessy is also a freelance consultant on issues related to youth, community security and recovery. Kessy also serves as peacebuilding expert and focal point for the British Organization Peace Direct in CAR.

M. ARSÈNE SENDE prior Minister of Justice and Keeper of the Seals in CAR, currently serves as a senior-ranking magistrate. Mr. Sendé has had an illustrious career in the justice field. In previous roles, he has worked in the areas of prosecution, investigation and trial. Within the remit of Bangui, Mr. Sendé started as President of the Court of First Instance, then subsuming the role of Counselor of the Correctional Chamber of the Court of Appeals. Mr. Sendé worked for 8 years (2003-2011) in the Directorate of Criminal Affairs and Pardons office as Inspector of Judicial Services. He also served as President of the Chamber of the Court of Appeals of Bangui and, in this role, was tasked with conducting several criminal hearings. From 2014 to 2017, he was Inspector General of Judicial Services and currently implements justice in the role of First Counselor to the Criminal Chamber of the Court of Cassation.

PETER WOODROW is Executive Director of CDA Collaborative Learning Projects. Before becoming Executive Director, he was the Co-Director of CDA's Reflecting on Peace Practice Program. Peter is an experienced mediator, facilitator, trainer, and consultant. He is skilled in negotiation, collaborative problem solving, and dispute resolution systems design. He has also developed and implemented international programs in peacebuilding, consensus building, decision making and inter-ethnic conflict resolution in Asia, Africa and Eastern Europe.

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