Mapping anti-corruption tools in the judicial sector

Victoria Jennett, Sofie A. Schütte and Philipp Jahn

U4 Anti-Corruption Resource Centre

www.U4.no

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Contents

Abstract

This U4 study investigates whether and how the judicial sector could benefit from anti-corruption measures that have proved useful in other sectors in improving the quality of the services they provide to users. Based on a survey and interviews among key informants in U4's partner agencies in 2014, we found a variety of anti-corruption tools already included in the agencies' bilateral judicial reform programmes. The tools are not frequently employed, yet, and they are sometimes implemented under a different label to avoid the sensitive implications of tackling corruption among those charged with upholding the law. Remarkable is the absence of support for the use of many control and oversight tools, budgeting and procurement tools, and some human resource instruments to prevent and detect corruption in the judicial sector. The general perception of the survey respondents is that it is at least partly the lack of internal donor capacity and expertise in adapting existing anti-corruption tools to the judicial sector that underlies the absence of these instruments from bilateral judicial reform programmes. Closer collaboration and knowledge transfer between experts in the judicial sector and other sectors on oversight, human resources, and budgeting processes could help close this gap.

Acknowledgements

Abbreviations

BTC	Belgian Development Agency
CRA	corruption risk assessment/analysis
Danida	Danish international cooperation under Ministry of Foreign Affairs of Denmark
DFAT	Department of Foreign Affairs and Trade, Australia
DFID	Department for International Development, United Kingdom
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit (German international cooperation)
IMS	integrity management system
MFAF	Ministry of Foreign Affairs of Finland
Norad	Norwegian Agency for Development Cooperation
PETS	Public Expenditure Tracking Survey
Sida	Swedish International Development Cooperation Agency
TI	Transparency International
UNCAC	United Nations Convention against Corruption
UNDP	United Nations Development Programme
UNODC	United Nations Office on Drugs and Crime
UN-PRAC	United Nations Pacific Regional Anti-Corruption Project
USAID	United States Agency for International Development

1. Introduction

"Judicial reforms consist of very technical reforms that, despite their technicality, have significance in judicial decision making that affects the political context, and for that reason they are perceived as sensitive by the public and donors. The media highlights political cases and donors want to get rapid and visible, non-sensitive results." —U4 partner staff

"The legal sector is a black hole because donors do not believe that their reform efforts in this area will be successful ... Nonetheless donors do run up against problems in implementing programmes in other sectors because all sectors rely on the judicial sector to some extent." —U4 partner staff

These two quotes from U4 partner agency staff interviewed in September 2014 confirmed some of the assumptions that led us to investigate the donor-supported implementation of anti-corruption measures in the judicial sector.[1] In recent years, judicial sector reform programmes have emphasised efforts to increase citizens' access to justice in order to strengthen the rule of law. This marks a shift from a focus on building institutions and training officials in the judicial sector towards greater consideration of the sector's impact on citizens and societies.

The rule of law,[2] including an impartial, functioning judiciary, is crucial to sustainable development, yet judicial reform may be neglected by donors who consider such interventions as, first, sensitive, especially when it comes to addressing corruption within the judiciary, and second, tedious, because of the technical nature of reforms. Calls for more internal and external oversight are frequently confronted with warnings that this may impede judicial independence. Although judicial integrity has been on the anti-corruption agenda since long before sectoral approaches started gaining attention, evidence on the use and effectiveness of anti-corruption measures in the judiciary appears even more scattered than evidence for other areas of donor support (Johnsøn, Taxell and Zaum 2012).

In 2013, the U4 Anti-Corruption Resource Centre carried out research to better understand why and how donors and governments integrate (or "mainstream") anti-corruption tools into sectors such as education, health, water, and forestry (Boehm 2014). That study did not include the judicial sector, or justice institutions more broadly. In 2014, building on the 2013 research, U4 undertook a first exercise to map the extent to which anti-corruption tools are being applied in the judicial sector as part of U4 partner agency support to developing countries. This mapping comes with an important limitation: some support to anti-corruption work by U4 partners is channelled through the work of multilateral agencies. The mapping exercise did not extend to anti-corruption tools implemented by multilateral agencies such as the World Bank, the United Nations Development Programme (UNDP), and the United Nations Office on Drugs and Crime

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1   Throughout the present report, "judicial sector" is understood to refer to the court system and court officials, including judges. "Judiciary" refers to judges only. The "justice system" is a broader term that includes not just judges and courts but also the actors and institutions that constitute the wider appartus of justice, such as prosecutors, police, prison officials, and lawyers.

2   The rule of law is "the principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards" (UN 2004).

(UNODC), which have a long history of developing and implementing tools to measure and strengthen judicial integrity.[3]

This paper began as a desk study, drawing on reports by U4, the German International Cooperation agency GIZ, UNODC, and UNDP on the use of anti-corruption tools in service delivery sectors. To develop a list of categories and specific examples of anti-corruption tools used in sectors, we consulted the GIZ Anti-Corruption Toolbox, a guidebook on various anti-corruption instruments used in GIZ projects.[4] The list of tools was further expanded by a review of anti-corruption approaches implemented by Transparency International (TI).

Based on the list, we prepared a questionnaire (Annex 1) that we sent out to U4 focal points in all eight U4 partner agencies: BTC (Belgian Development Agency); Danida (Danish International Cooperation under the Ministry of Foreign Affairs of Denmark); DFAT (Australia Department of Foreign Affairs and Trade); DFID (United Kingdom Department for International Development); GIZ (German International Cooperation); MFAF (Finland Ministry of Foreign Affairs); Norad (Norwegian Agency for Development Cooperation); and Sida (Swedish International Development Cooperation Agency).[5] We reviewed written responses to the questionnaire and conducted follow-up interviews with seven focal points and/or justice sector experts in six of the agencies: GIZ (2 interviews), BTC, Danida, DFAT, MFAF, and Norad. The aim of the survey and interviews was to find out which tools are being applied in the judicial sector specifically. We asked about particular experiences with these tools, including obstacles to their implementation. Due to the limited number of respondents, the information they provided is a partial picture that may or may not be representative of wider practices and views. To address that problem we circulated the draft analysis among key personnel in the U4 partner agencies for review. Nevertheless, the picture is still sketchy.

Section 2 briefly reviews the distinction between sector and non-sector approaches to anti-corruption and discusses the function of the judiciary as an entity that must deliver services while maintaining its independence from the other powers of the state. The results of the survey among U4 partner agencies are presented in section 3. The final section discusses the main obstacles to implementing anti-corruption tools in the judicial sector and provides some initial suggestions on how to address these obstacles and gaps.

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3   On UNODC's extensive work on strengthening judicial integrity, as well as in the wider justice sector, see the list of resources in the section titled 'Criminal Justice Integrity' on the UNODC website, http://bit.ly/1lJZCEV.

4   The GIZ Anti-Corruption Toolbox will be available at http://www.goodgovernance-wiki.org/.

5   The Swiss Agency for Development and Cooperation became a U4 partner in 2015, after the data collection and analysis for this study had been completed.

2. Justice, just another service?

During the last decade, sector-specific anti-corruption initiatives have gained prominence among donor agencies, beginning with work carried out 10 years ago by bilateral agencies such as GIZ (Pech 2004) and the United States Agency for International Development (USAID 2005). The World Bank and UNDP pioneered the concept of "mainstreaming" anti-corruption efforts, a concept that entails "integrating an anti-corruption perspective into all activities and levels of an organisation, a sector, or government policies" (Boehm 2014). Anti-corruption reforms in basic service sectors have been geared towards improving service delivery to people by strengthening integrity, transparency, accountability, and participation. A number of programmes, organisations, and case studies focus on sector-specific anti-corruption approaches in service delivery sectors that have an immediate impact on the lives of the poor: health, water, transport, and education (see, for example, Hussmann and Fink 2013; UNDP 2011a, 2001b, 2011c; GIZ 2013a; Feuerstein et al. 2013; Sieber, Köller, and Richmond 2012; Campos and Pradhan 2007). The rationale for sector-specific anti-corruption approaches is that if corruption unduly influences political, judicial, and administrative decisions and diverts resources in a given sector, then anti-corruption measures should result in more effective and efficient service delivery.

Programmes that seek to provide access to justice have some of the same vulnerabilities as basic service delivery programmes, such as those concerned with access to clean water and improved sanitation, health services, and basic education. In these sectors, as in the judiciary, corruption undermines not only access to services but also the quality and effectiveness of the services and, ultimately, the legitimacy of the service provider. Rationale for a sector-based anti-corruption approach.

Three main arguments have been used to promote sector-based anti-corruption approaches. First, broad, one-size-fits-all prescriptions might not be able to take into account the specificities of different sectors. Second, reducing corruption in sectors can bring about tangible results for customers and service users, such as a reduction in costs of electricity or the provision of new school textbooks. And third, introducing reforms at sector level may meet less political resistance than pushing reforms that have an impact across the whole government. The GIZ added five further potential advantages (see Box 1).

> **Box 1. Advantages of working at the sector level**
>
> "**Efficiency**: A detailed risk map of the underlying governance problems in a sector helps in setting priorities. Measures can thus be focused, increasing their value for money.
>
> **Synergies**: Sector experts and governance experts work together, to develop a more complete picture and broader perspective and allow for an exchange of experience and ideas. 1 + 1 > 2
>
> **Added value**: Desired sector outputs provide a benchmark against which the added value of anticorruption measures can be assessed, enhancing thus the achievements of sector work.
>
> **Palpability, visibility and feasibility**: By facilitating measurement and case studies, a sector based approach facilitates the communication of what can be achieved by anticorruption measures. This may be helpful to create political will.
>
> **Economies of scale**: The basic approach to anticorruption in sectors remains the same. Applying it to an additional sector is simple if done jointly with sector experts who bring in the sector expertise."
>
> *Source*: Boehm and Teggemann 2011.

Aspects of synergies and economies of scale, in particular, lead us to the question of whether and to what extent anti-corruption tools are already part of, or could be part of, judicial sector reform programmes.

2.1   A service provider with particular needs, but increasingly part of the international anti-corruption agenda

The judicial sector plays a unique role in society, underpinning the rule of law and the separation of powers. The social function of judges and courts is therefore distinct from that of teachers and schools, or doctors and hospitals. Judicial operators must not only deliver justice but also uphold and protect the values and integrity of the state. To do this effectively the judicial sector must be independent from other organs of state, such as the government and the parliament. Tools that are designed to increase the accountability of sector institutions or make their internal workings more transparent must take into account the special role of the judicial sector in society.

Judicial independence refers both to the constitutional requirement that the judiciary be independent from the influence of the executive and legislative branches and to the ethical principle that judges must adjudicate without being subject to inappropriate influences. Fighting corruption in the judiciary has typically focused on the constitutional aspect of maintaining judicial independence and promoting the separation of powers. However, it is also necessary to improve judicial accountability.

In 2001 the Judicial Integrity Group, an association of high-ranking judges from different countries, developed the Bangalore Principles of Judicial Conduct "to provide guidance to judges and to afford the judiciary a framework for regulating judicial conduct". The principles presuppose that "judges are accountable for their conduct to appropriate institutions established to maintain judicial standards, which are themselves independent and impartial, and are intended to supplement and not to derogate from existing rules of law and conduct that bind the judge.

Anti-corruption measures to promote accountability and transparency have often been applied lightly to the judicial sector for fear of encroaching on judges' individual ability to adjudicate free of inappropriate influences. Widespread corruption within the judicial sector contributes to the failure of the courts to limit the excesses of the executive and legislative branches of government. It also reduces people's access to formal judicial services; indeed, judicial corruption is one reason that many people in developing countries prefer to turn to informal justice mechanisms for dispute resolution. Put simply, there cannot be independence without accountability.

The United Nations Convention against Corruption (UNCAC), in effect since 14 December 2005, attempts to embrace this difficult relationship and includes a direct reference to anti-corruption measures in the judiciary. The UNCAC's chapters cover prevention of corruption, criminalisation and law enforcement, international cooperation, and asset recovery, with both mandatory and optional provisions in each area. A mandatory provision is Article 11 on "measures relating to the judiciary and prosecution services." It reflects the special approach needed to apply anti-corruption measures in the judiciary in order to protect judicial independence, which is clearly interpreted in this article as referring to the separation of powers. Article 11 is the most relevant UNCAC article when it comes to the implementation of anti-corruption measures in the judiciary (Box 2).

> **Box 2. UNCAC Article 11(1)**
>
> "Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary."

The definition of a "public official" in the UNCAC includes persons holding executive, legislative, or judicial office. This means that some additional UNCAC provisions can also be considered relevant to the judiciary, especially Articles 7, 8, and 13 from Chapter II on prevention. They promulgate measures like human resource management in the public sector, codes of conduct, and civil society participation to prevent corruption, which also relate to measures for implementation of the Bangalore Principles. Relevant provisions other than Article 11 are, however, in most cases not mandatory for states parties.

The next section provides an overview of anti-corruption tools applied in the judicial reform programmes of U4 partner agencies. The survey encompassed not only explicit integrity policies but also control and oversight measures, human resources management tools, budgeting and procurement mechanisms, awareness-raising measures, and leadership-building measures. Relevant articles of the UNCAC are listed. In discussion of an overview matrix, we identify gaps as compared to the overall list of tools appended in Annex I.

3. Use of anti-corruption tools by U4 partners in the judicial sector

Anti-corruption tools may be used to prevent, manage, or punish corruption as well as to foster and maintain integrity. In recent years these tools have been integrated into sector reform programmes to tackle an array of corruption risks. In sectors such as water, education, health, and transport, as well as local government, anti-corruption tools have been used to improve the effectiveness and efficiency of service delivery.

Anti-corruption tools have also been used as part of efforts to strengthen the independence and accountability of the judicial sector and improve access to justice, although not all anti-corruption tools have been explicitly labelled as such when applied in a judicial context. Indeed, several U4 partner agencies have found that anti-corruption tools can be implemented more effectively if they are framed in less inflammatory terms, presented as tools for "improving case management," "improving access to justice," "increasing transparency," or simply "publishing decisions." Judicial actors may resist being the target of overtly anti-corruption reforms, since they baulk at the implication that they, the guardians of justice and the rule of law, could act corruptly and illegally.

3.2   Overview of anti-corruption tools used by U4 partners in the judicial sector

Table 1 presents a range of anti-corruption tools available in seven categories, noting which UNCAC provisions are served by each tool. It names U4 partner agencies that have implemented each tool in the judicial sector and lists some of the countries where they have done so (the list of countries is not exhaustive). The tools in italics were not included in the original questionnaire (Annex 1), but were added because partner agencies reported implementing them in judicial reform projects.

The sections following the table map in more detail the experiences of the U4 partner agencies in applying anti-corruption tools in the judicial and other sectors. There is also a discussion of some tools that have not yet been used by U4 partner agencies.

Table 1. Use of anti-corruption tools by U4 partners in the judicial sector

Category	Tool	UNCAC reference	U4 partner agencies	Countries
Policy	Anti-corruption strategies for a sector	Art. 5(1)[a]	BTC, GIZ, DFID	Burundi, Bhutan, Uganda, Nigeria
	Access to information legislation/regulation for a sector	Art. 13[b]	BTC, MFAF, Danida, DFATc, Sida, GIZ	Burundi, Pacific Island countries, Southeast European countries, Sierra Leone, Kyrgyzstan, Tajikistan, Uganda, Bolivia, Mongolia
	Development of integrity/ transparency principles or standards for a sector	Art. 8(2)[d]	BTC, MFAF, Danida, Sida, GIZ	Burundi, Uganda, Georgia, Mongolia, Kyrgyzstan, Tajikistan

Control and oversight	Establishing/strengthening sectoral regulatory/oversight bodies	Art. 6[e]	BTC, MFAF, GIZ	Burundi, Southeast European countries, Kyrgyzstan, Tajikistan
	Establishing/strengthening ombudsperson for a sector or institution	Art. 6[f]	MFAF, Sida, GIZ	Kyrgyzstan, Tajikistan
	Integrity reviews of sector(s)	Art. 60, Art. 63(4e)[g]	GIZ	Georgia
	Supporting civil society oversight in sectors (e.g., complaint mechanisms run by civil society)	Art. 13[h]	MFAF, Danida, DFAT[i], GIZ, DFID	Indonesia, Uganda, Burkina Faso, Sierra Leone, Mongolia, Kyrgyzstan, Tajikistan, Sierra Leone, Asia Pacific countries with TI chapters
	Performance benchmarking (e.g., by a regulator in a sector)	Art. 5[j]	BTC, GIZ	Georgia, Burundi
	Governance and anti-corruption country diagnostic survey	Art. 63(4e)	Danida	*Tanzania*
Human resources	Recruitment standards for a sector or (sector) institution	Art. 7	BTC, Danida, Sida, GIZ	Burundi, Uganda
	Integrity management systems for a sector or (sector) institutions	Art. 7(1)[k]	BTC, Danida, GIZ	Uganda
	Conflict of interests policy for a sector or (sector) institution	Art. 7(4), Art. 8	BTC, Danida, GIZ	Uganda
	Code of conduct systems for a sector or (sector) institution	Art. 8	BTC, Danida, Sida, GIZ, DFID	Uganda, Georgia, Sierra Leone, Burundi
	Assets/income declaration for a sector or (sector) institution	Art. 8(5) promotes asset declaration	GIZ	Georgia
	E-recruitment system for a sector or (sector) institution	Art. 7		
	Sectoral ethics training	Art. 7(1), Art. 11[l]	GIZ, DFID	Sierra Leone
	Performance targets within a sector or a (sector) institution (e.g., to qualify for salary increase, bonus payment, or promotion)	*Art. 5*	*BTC*	*Burundi*
	Restructuring/organisation of courts	*Art. 11*	*BTC, GIZ*	*Burundi, Georgia*

Category	Tool	UNCAC reference	U4 partner agencies	Countries
Assessment and monitoring	Corruption risk analysis in a sector	Art. 5, Art. 10(c)[m], Art. 14	BTC, Danida, Sida, GIZ	Burundi, Bhutan, Uganda, Vietnam
	Public contracting monitoring system in a sector	Art. 9	BTC, GIZ	Burundi
	Court/trial monitoring (including donor support for civil society monitoring)	Art. 13	MFAF, Sida, GIZ, DFID	Cambodia, Sierra Leone, Mongolia, Kyrgyzstan, Tajikistan, Malawi, Bangladesh
	Indices measuring corruption or integrity in a sector	Art. 5	BTC, Danida, DFAT[n], GIZ	Burundi, Burkina Faso, Tanzania, Indonesia, Papua New Guinea, Solomon Islands, Asia Pacific countries with TI chapters
	Anti-corruption research (e.g., reports on levels of corruption or measures against corruption in a sector)		Danida, DFAT[o], Sida, GIZ	Uganda, Bolivia, Vanuatu, Pakistan, Maldives, Bangladesh, Nepal, Sri Lanka
	E-platforms for sector transparency (e.g., procurement, service delivery/ cost levels, complaints, feedback)	Art. 10(b)	GIZ	Mongolia
	Electronic case management		*Danida, GIZ*	*Uganda, Bolivia, Central Asian countries, Georgia*
Budgeting and procurement	Participatory budgeting in a sector	Art. 13, Art. 10		
	Measures to promote transparency in budget allocation in a sector	Art. 9	BTC, GIZ	Burundi
	Art. 13, Art. 10	BTC, MFAF, Danida, GIZ	Burundi, Burkina Faso, Mali, Kyrgyzstan, Tajikistan	Cambodia, Sierra Leone, Mongolia, Kyrgyzstan, Tajikistan, Malawi, Bangladesh
	E-procurement in a sector		GIZ	Mongolia
	Disclosure of contracts and/or procurement documents (within the sector or to the public)	Art. 10, Art. 13	BTC	Burundi

Category	Tool	UNCAC reference	U4 partner agencies	Countries
Awareness raising	Public information campaigns for a sector	Art. 13	MFAF, Danida, DFAT[p], Sida, GIZ, DFID	Bangladesh, Tanzania, Georgia, Southeast European countries, Sierra Leone, Mongolia, Indonesia, Kyrgyzstan, Tajikistan, Myanmar, Malawi
	Youth education on sector issues	Art. 13	Danida, DFAT[q], GIZ	Uganda, Burundi, Timor-Leste
	Anti-corruption and ethics education and training for sectors	Art. 11[r]	BTC, MFAF, Danida, DFAT[s], Sida, GIZ	Bangladesh, Georgia, Burundi, Sierra Leone, Mongolia, Indonesia, Kyrgyzstan, Tajikistan, Nepal, Pacific Island countries
	Informing service users about costs, fees, and rights	*Art. 5, Art. 13*	*BTC, DFAT[t]*	*Burundi, Indonesia, Papua New Guinea, Vanuatu, Solomon Islands, Maldives, Sri Lanka*
Leadership	Leadership training for a sector or (sector) institution	Art. 7(1)	BTC, MFAF, Danida, DFAT[u], GIZ	Burundi, Bangladesh, Kyrgyzstan, Tajikistan, Timor-Leste
	Peer-to-peer mentoring and exchange of experiences and good practices between officials from different countries	Art. 60	*BTC, DFAT[v], GIZ, Norad*	*Burundi, Indonesia, Georgia, Armenia, Azerbaijan, international*

Source: U4 survey among eight partner agencies, 2014. This table includes tools listed in the original survey questionnaire as well as those added by U4 partners (in italics).

a. In accordance with Article 5, states parties are required to develop and implement or maintain effective anti-corruption policies that encourage the participation of society, reflect the rule of law, and promote sound and transparent administration of public affairs.

b. Participation of society: ensuring that the public has effective access to information.

c. Regional support to United Nations Pacific Regional Anti-Corruption Project (UN-PRAC). http://bit.ly/1POCFgy.

d. Referring to the application of the code of conduct as an optional requirement. For the justice sector in accordance with Article 8(3) and Article 11, the states parties shall take note of international standards such as the Bangalore Principles of Judicial Conduct.

e. Article 36 applies as well, if the oversight body is given law enforcement powers.

f. In some cases, the ombuds office assumes the role of an anti-corruption body as required under Article 6. Article 36 applies as well, if the ombudsperson is given law enforcement powers.

g. Article 60 in the chapter on technical assistance requires training in the evaluation of institutions and the management of public services. Under Article 63 the Conference of the States Parties is formed to review implementation of the UNCAC.

h. States parties may involve the public through direct representation in the development of preventive strategies required by Article 5, or through involvement in the body or bodies established under Article 6 (UN 2009, p. 62).

i. Regional support to Transparency International Asia Pacific Department and UN-PRAC. http://bit.ly/1PZ3hdj.

j. See UNCAC Technical Guide (UN 2009).

k. Training of public officials in ethics is considered part of an integrity management system (see for example Principle 5 of the UK Bribery Act 2010 guidance).

l. The UNCAC Self-Assessment Checklist (UNODC 2015) asks states parties, when specifying the implementation of UNCAC Article 11, to describe measures that set forth induction and ongoing training requirements and curricula for members of the judiciary, particularly in terms of codes of conduct, integrity, and independence. http://bit.ly/1NcXb8r.

m. Article 10(c) calls for publication of information, which may include periodic reports on the risks of corruption in the public administration.

n. Supported regionally through Transparency International's Global Corruption Barometer and Corruption Perception Index research. http://bit.ly/1PZ3hdj.

o. Supported regionally through Transparency International's National Integrity System country assessment research. http://bit.ly/1PZ3hdj.

p. Justice for the Poor (J4P) in Indonesia. http://bit.ly/1NcXKyX.

q. Justice for the Poor (J4P) in Timor-Leste. http://bit.ly/1NcXKyX.

r. The UNCAC Self-Assessment Checklist asks states parties, when specifying the implementation of UNCAC Article 11, to describe measures that set forth induction and ongoing training requirements and curricula for members of the judiciary, particularly in terms of codes of conduct, integrity, and independence.

s. Support is provided by the Federal Court of Australia under the Pacific Judicial Development Programme. This program is funded by the New Zealand Ministry of Foreign Affairs and Trade. http://bit.ly/1MRnk8Z.

t. Supported bilaterally in Indonesia and regionally through Transparency International's Advocacy and Legal Advice Centres (TI ALACs). http://bit.ly/1R6qqeu.

u. Supported bilaterally in Timor-Leste. http://bit.ly/1P9piaL.

v. Supported bilaterally in Indonesia. http://bit.ly/1sAZqJG.

3.3   Policy tools in practice

Anti-corruption strategy; access to information; sector-specific standards on transparency, accountability, and integrity.

A commonly used policy tool is the development of an **anti-corruption strategy**, which typically sets out anti-corruption objectives with timelines for achieving the objectives and provides guidance on how to sequence specific actions by different stakeholders. Anti-corruption strategies have often been developed on a nationwide basis to guide a government's anti-corruption efforts across all sectors and public institutions. However, they may also be sector-specific. For example, the Burundi Ministry of Justice has been assisted by international partners (United Nations, European Union, and BTC) in developing an anti-corruption strategy for the judicial sector with four strategic areas of focus (Table 2). An anti-corruption strategy might also be one aspect of plans for broader reform in the judicial sector. For instance, in Bhutan, Danida supported the "Judiciary Strategic Master Plan, 2006–2020," which included anti-corruption initiatives such as ethics and integrity training for judges. DFID has reported implementing an anti-corruption strategy for the judiciary in Nigeria.[6]

Access to information in the judicial sector entails obliging courts to publish decisions and strengthening case management and record systems so that court users can track the progress of their cases. In Uganda, Danida's judicial sector programme began in 1996 to strengthen electronic case management (Danida 2011). This was not framed in anti-corruption terms, even though publishing decisions and strengthening case management systems amounts to improving accountability and transparency, which are steps towards preventing corruption. Danida is supporting a similar electronic case management programme in Bolivia, which is designed to give the attorney general an overview of the system, make it possible to address bottlenecks

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6   Documents related to DFID's Nigeria Justice for All Programme are available on the DFID Development Tracker website, http://bit.ly/19LUdqx.

Table 2. Goals of the Burundi strategy against corruption in the judicial sector, 2015–19

Strategic area	Expected results
Anti-corruption strategies for a sector	• Legal provisions regarding judicial integrity are improved • Judicial personnel are aware of their professional obligations • The disciplinary procedure regarding judges and judicial personnel is reformed to comply with international standards, making it more efficient • Efficient mechanisms to monitor complaints and cases are set up and function well • The standard of living of judicial personnel is improved
Rationalise the management of judicial services and courts to reduce opportunities for corruption and judicial abuse	• A transparent and efficient case management system is set up • A transparent and efficient service management system is set up • Internal controls and effective service assessments are regularly performed • Civil society and the National Council for Human Rights oversee the operations of the judicial services • Mechanisms to follow up on recommendations are set up
Strengthen judicial independence	• The judiciary has the capacity to plan and manage its budget • The judicial council is reformed to comply with international standards and its capacities are strengthened • Judges are selected and appointed based on objective criteria, in accordance with a procedure that guarantees their independence from other branches of government • Judges' careers are managed by the judicial council based on objective criteria
Strengthen people's capacity to resist corruption and abuse	• People are well informed and trained to understand their rights, judicial procedures (including costs and time frames), rules of judicial ethics, and use of anti-corruption and complaint mechanisms • Victims of corruption and abuse are entitled to legal assistance

Source: Adapted from Burundi Ministry of Justice 2014.

in the system, and give citizens access to their individual cases (Ministry of Foreign Affairs of Denmark 2013). In Indonesia, the Australian DFAT has supported access to legal information through the publication of court judgments online as a way to foster public confidence in the judicial process (DFAT 2013).

A set of **sector-specific standards on integrity and transparency** developed in collaboration with sectoral leaders can provide benchmarks for institutions or actors to develop a more comprehensive anti-corruption programme. As mentioned earlier, the Bangalore Principles are a set of integrity standards developed for the judiciary by senior judges. GIZ has used the Bangalore Principles to develop an assessment tool for the judiciary known as " Judicial Integrity Scans," described further below. GIZ programmes in Southeastern Europe have also developed

integrity standards, working with groups of legal professionals such as enforcement agents and notaries. The involvement of institutional leaders in developing the standards encourages them to strive to meet the standards they themselves have set (GIZ 2013a).

Policy tools that have not yet been used in the judicial sector by U4 partners
Lobbyist registration; access to information legislation; whistle-blower protection; open meetings.

The establishment of a **register of lobbyists** increases transparency of the process through which public institutions and officials interact with stakeholders who seek to influence public decision making. Stakeholders include businesses, non-governmental organisations (NGOs), trade unions, and professional associations. The media and citizens have access to information about who is influencing public officials, about the interests of those seeking influence, and about the resources invested in pursuing those interests. A lobbyist register specifically for the judiciary is less relevant, however, since judges should not typically be interacting with lobbyists at all: judges are independent and should be seen to be so.

Anti-corruption legislation may include **access to information or freedom of information laws, whistle-blower protection laws, or laws to require open meetings**. Such laws aim to hold public agencies as well as private businesses in a sector accountable and to ensure that they operate transparently and with integrity. Access to information legislation typically guarantees a citizen's right to information held by a public body. Whistle-blower protection provides a whistle-blower with legal protection from retaliation; it has been applied in sectors such as water, education, health, and policing. Open meetings legislation entitles citizens to attend meetings where public business is conducted. U4 partner agencies did not report supporting such anti-corruption legislation specifically in the judicial sector.

3.4   Control and oversight tools in practice

Regulatory/oversight bodies; ombudspersons; integrity reviews; civil society oversight; performance benchmarking; governance and anti-corruption country diagnostic surveys; media oversight and investigative capacity.

A **regulatory or oversight body** may be established in a sector as a separate, permanent government agency to lead anti-corruption efforts, such as by auditing the systems of relevant government departments, investigating allegations of corruption, and informing citizens about their rights to access the services provided in that sector. In Burundi, BTC in coordination with other international partners has supported an inspection body within the Ministry of Justice in its efforts to oversee the justice sector. This body, among other functions, carries out inspections of courts to assess whether they meet the standards that have been developed and published for well-functioning courts in Burundi. It also receives complaints from citizens about failures in the justice system and oversees the services provided by court clerks. In Yemen, DFID states that supporting internal inspection units in the judiciary has improved internal accountability: the approach "facilitated an assessment by the organisations themselves of their strengths and weaknesses; suggested managerial improvements; and avoided commissioning external reviews which might have been ignored" (DFID 2008, 13).

The system of appeals within the judiciary enables higher courts to oversee judicial decision making. BTC has also supported the strengthening of higher courts in Burundi to oversee lower courts (BTC 2014). Additional oversight bodies may be established to regulate judicial conduct.

For example, judicial councils oversee the organisation of the judiciary and are composed of judges, legal professionals, and in some cases laypersons. They are typically responsible for administering complaints and disciplinary mechanisms for judges. In Southeast Europe GIZ has supported the establishment of oversight bodies for new legal professions such as notaries (GIZ 2013).

An **ombudsperson** receives and investigates complaints by citizens who have experienced cases of maladministration, including corruption. In many countries an ombuds office serves as an oversight body for the entire public administration, but it may also be responsible for only one sector, such as health, water, or the judiciary. GIZ has supported the establishment of an ombuds office for the judiciary in Kenya (Kenyan Supreme Court 2012, 14). The Finnish Ministry of Foreign Affairs has supported the strengthening of the ombuds office in Tajikistan to focus on its role in the justice system (not specifically the courts), including the visiting and monitoring of detention centres and the implementation of internationally agreed commitments against torture.

Further control and oversight mechanisms include assessment and reporting tools that examine how effectively public service institutions are performing. **Integrity reviews** of public service institutions assess the corruption risks in a sector and develop recommendations to improve its integrity management. Danida has supported **service delivery surveys** in the judicial sector. In Bhutan in 2008, Danida supported a perceptions survey to assess whether the court services were providing justice in a timely manner and whether decisions were fair and impartial (Dorji 2010).

Civil society organisations can play a substantial role in control or oversight efforts aimed at tackling corruption. One anti-corruption tool that provides oversight of how public authorities are functioning is an independent complaint mechanism or an anti-corruption hotline managed by civil society. Such a mechanism enables witnesses and victims to report corruption in state agencies and other bodies and provides individuals advice on how to pursue complaints. GIZ has helped enable non-state bodies to address complaints from citizens in the broader justice sector, for example through the GIZ community policing intervention in northern Afghanistan and Bangladesh (Jahn and Striewe 2014). The Australian DFAT supports Transparency International's network of Advocacy and Legal Advice Centres that provide victims and witnesses of corruption with avenues for recourse in their dealings with public sector agencies. DFID also has supported the strengthening of civil society's voice in justice matters in Sierra Leone.[7]

The **media** can play an effective anti-corruption role by investigating allegations of impropriety in public affairs, exposing corrupt practices, and educating citizens about corruption and the measures available to tackle it. For example, UNDP trained journalists to investigate corruption in the health sector in Guinea (UNDP 2012), while Transparency International Kenya and the Water Integrity Network conducted training for professional and citizen journalists in the water sector (TI 2012; WIN 2012). The U4 partner agencies reported that if they supported programmes to strengthen the media's oversight and investigative capacities, this support, in the form or training or resources, was typically not sector-specific. Other donor agencies have supported media training on corruption in the judicial sector (BBG 2013).

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7   Documents related to DFID's Access to Security and Justice in Sierra Leone project are available on the DFID Development Tracker website, http://bit.ly/1R6sp2H.

Control and oversight tools that have not yet been used in the judicial sector by U4 partners
Blacklists or name-and-shame lists; social audits; oversight body on conflict of interests; performance benchmarking.

Blacklists or name-and-shame lists target individuals and companies that are ineligible to be awarded contracts by a government or an international organisation because they have been sanctioned under that entity's policy on fraud or corruption. There are no examples of such public listing of individuals or companies that service the judicial sector.

Social audits involve all stakeholders in reviewing how public authorities are managing public resources. Service delivery surveys allow citizens to evaluate service delivery, and these perception-based findings may be combined with an institutional performance report.

A **body to manage conflicts of interests** assesses whether officials' assets and interests could influence their official decision-making responsibilities. This is a necessary complement to the asset declarations and conflict of interests policies described in section 3.4 on human resource tools. The mechanism must also include a process for reporting and reviewing conflicts of interests and determining appropriate courses of action. U4 partners did not report supporting bodies to assess and manage conflicts of interests of judges or other judicial system actors.

A regulator or other government body may also introduce performance benchmarking in a sector for purposes of control and oversight. This involves setting out a list of targets or goals that an institution, such as a service provider, should reach, and evaluating the performance of the service provider in relation to these targets. For example, in Indonesia GIZ has supported the use of OECD principles as a benchmark to assess the integrity management system of the Ministry of Administrative and Bureaucratic Reform.[8]

3.5   Human resource management tools in practice

Recruitment standards; e-recruitment system; integrity management systems; restructuring of courts; case management systems; codes of conduct; ethics training.

Anti-corruption and integrity-building tools can be implemented as part of human resources procedures and processes. **Recruitment and promotion guidelines** can help provide equal access to employment and ensure that the best candidate is selected in a fair and transparent manner. The use of **e-recruitment systems** can enhance the accountability of recruitment decisions. Several U4 partner agencies have supported recruitment standards for the judiciary as well as other sectors: Danida, GIZ, Sida, and BTC. In Burundi, BTC supported the establishment of a training centre for judicial actors and organised with the centre the first competitive exam for the recruitment of magistrates in 2014. They also support merit-based recruitment of judges in Burundi, which includes integrity criteria and requires formal checks on the history of candidates (BTC 2014).

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8   See GIZ's Transforming Administration Strengthening Innovation (TRANSFORMASI) Programme, http://bit. ly/1lJZXYo.

An **integrity management system** (IMS) is a holistic approach to preventing, detecting, investigating, and punishing corrupt behaviour, in which institutions, policies, and processes are established and coordinated to manage integrity throughout a sector. One feature of an IMS in the judicial sector is the use of organised processes and protocols in the day-to-day operation of the courts. This includes the **restructuring of courts** to improve transparency, for example by accurately naming courts and establishing information offices, as well as to prevent corruption, for example by ensuring that judicial officials such as judges and prosecutors do not share the same office. It is also important to make sure that judges' offices cannot be accessed easily by other officials or citizens who might wish to petition the judges. In Burundi, BTC reports that citizens were accustomed to freely accessing judges' offices to discuss their cases. BTC therefore supported the creation of "welcome offices" staffed by court clerks, who provide professional information about what citizens can expect from the court. These offices act as a filter between judges and citizens, helping to protect the integrity and independence of judges by ensuring they are not drawn into illegal or inappropriate discussion of cases. Piloted in certain courts, the welcome offices were formalised in a Ministry of Justice regulation in 2012 and are now implemented country-wide (BTC 2014).

A further aspect of an IMS is the clear organisation of a sector's administrative system to enable staff to access records easily and respond efficiently to customer or user queries. In the judiciary, for example, organised and automated **case management systems** can help safeguard cases from being delayed or quickly dismissed due to administrative error or corruption. Electronic case management systems enable courts to accept filings online, register prosecution decisions to launch criminal proceedings, update dockets electronically, download documents, and search and provide access to filed documents online. Case management tools improve the internal management of a court, but they also serve as anti-corruption tools that enable monitoring of the progress of a case through the courts. Danida reports that this tool was promoted in judicial reform programmes in Uganda and Bolivia for the stated purpose of improving court management and operational structures, rather than being labelled as an anti-corruption tool.

Codes of conduct provide a set of standards, rules, and guidelines relevant to the duties and functions of public servants. They may also include codes of ethics, and ethics training may be provided to officials to reinforce the behaviour expected by codes of conduct. GIZ, through its work with the Judicial Integrity Group, has supported the development of national codes of conduct for judges based on the Bangalore Principles (Judicial Integrity Group 2012).

Officials or employees in a sector may receive **anti-corruption and ethics training** to strengthen their response to ethical dilemmas, including situations where they are faced with corruption. In Bolivia, GIZ implemented training on a new criminal code that replaced the police with public prosecutors as leaders of investigations. One reason for this reform was the hope that public prosecutors would avoid the corruption and bribery that had marked investigations led by the police. Training sessions confronted and discussed the issue of handling corruption and bribery situations. The Danida Fellowship Centre has trained magistrates in Uganda and other countries on ethical and anti-corruption topics (Danida 2011). GIZ in Georgia supports training programmes for the judiciary that include peer-to-peer exchanges between Georgian judges and judges from other countries (GIZ 2010).

Human resource management tools that have not yet been used in the judicial sector by U4 partners

Involvement of civil society, laypersons, or independent experts in selection of judges; conflict of interests policies; assets/income declarations; investigative capacities; performance targets; increasing judicial salaries.

Because judges wield significant authority over the lives of citizens, some countries involve independent, non-governmental experts or laypersons in selection of judges (as well as other state officials). The Judicial Integrity Group, guardians of the Bangalore Principles, has recommended the inclusion of **lay members in judicial appointments processes** (Judicial Integrity Group 2010). For example, the United Kingdom's Judicial Appointments Commission consists of 15 members drawn from the lay public as well as from the legal profession and the judiciary. In many European countries (Germany, Italy, France, Spain), judicial appointments commissions include lay members who are nominated by parliament or the government (Bell 2005, 43). None of the U4 partner agencies reported supporting the inclusion of lay members in the recruitment or selection of judges. Reports on recruitment procedures in sectors and institutions, undertaken by NGOs, the media, or external oversight bodies, can also lend weight to efforts to tackle corruption and encourage integrity in a sector.

Specified officials may be required to regularly disclose their financial holdings and assets as well as their income. The body that holds and manages these **asset/income declarations** may make the filed documents public or, alternatively, keep them confidential for the purposes of internal review only. In order for declarations to provide useful evidence to support enquiries into whether an official has a conflict of interests or illicit income, the holding body should be sufficiently resourced to enable the review, verification, and **investigation of declarations**. Asset declarations may be verified by, for example, a state's tax authority, an independent state body, or the judiciary itself, with different risks in each case. A tax authority, at the behest of the government, could use its verification powers to harass judges. A verification body made up of judges themselves may not possess the necessary skills and experience to carry out financial investigations and its members may be seen by the public as not sufficiently independent to undertake credible investigation of their peers (Hoppe 2014). No U4 partner agencies reported supporting the periodic monitoring of asset disclosures.

Performance targets may be used to qualify staff or officials for salary increases, bonus payments, or promotion. Evaluation of judges should be based strictly on their performance, that is, their adherence to procedural rules, their legal knowledge, their clarity in oral interventions and written decisions, and their demeanour and behaviour in court, among other factors.

A living wage for judges and court staff has been considered necessary to guard against the temptation to accept bribes. There is scant evidence of judicial corruption declining as a result of **increasing judicial salaries** (Khan 2006). Nonetheless, living wages as part of a progressive career structure that includes incentives for efficient work can help build a judiciary that attracts well-qualified and motivated individuals. Bonus systems may create incentives to work productively to meet targets, but as one survey respondent commented, they may also aggravate problems of patronage if senior officials are able to inflate their personal power by inducing staff to do their bidding in return for a bonus. Moreover, in societies that are strongly structured by kinship or clan systems, higher salaries often create higher expectations among an official's relatives for financial support. This can create additional dependencies instead of economic independence and exacerbate the drive to pursue corrupt income (Fjeldstad 2006).

3.6   Assessment and monitoring tools in practice

Corruption risk analysis; integrity reviews; public contracting monitoring systems; court/trial monitoring; corruption/integrity measurement indices; anti-corruption research; e-platforms.

A variety of tools can be used to assess or monitor corruption and integrity in a sector. **Corruption risk assessments or analyses** (CRAs) help identify and explain the institutional and behavioural factors that facilitate corruption. A CRA is usually the first step in the development of a systematic sector anti-corruption strategy, and donors or public authorities often carry out CRAs before implementing programmes. Anti-corruption frameworks, desk research, surveys of users or customers in a sector, as well as social, political, and economic indicators are all used to build a CRA. BTC, Danida, and Sida have carried out CRAs in the judicial sector, and Australian DFAT and Norad report that CRAs should be carried out by their staff as part of preparation for programming in a sector.

GIZ has carried out **integrity reviews** in the judiciary using Judicial Integrity Scans, a tool that assesses whether judiciaries meet the internationally agreed standards found in the Bangalore Principles. The evaluation was piloted in Georgia and Côte d'Ivoire (Ferguson and Krebuehl 2014), and a third scan was conducted in Cambodia in late 2014. The scan consists of two parts: a desk study conducted by local experts, followed by in-depth interviews with stakeholders from the justice sector and civil society. The questionnaire for stakeholders covers legal and institutional arrangements as well as practical experience; it should be filled out by at least one representative of the judiciary and one representative of civil society to obtain a balanced result. In the subsequent interviews, the answers given by the experts are verified, and possible gaps that were not discovered in the course of the desk study may be revealed. The interviews give stakeholders, including representatives of the judiciary, administration of justice, lawyers, court users, and civil society, the chance to provide their perception of the functioning of the judiciary, especially with regard to the implementation of standards and laws in place.

Public contracting monitoring systems compare the contracting systems already in place with an ideal system. Transparency International's Minimum Standards for Public Contracting and the UNCAC provisions for public contracting set out selected indicators for an effective monitoring system. Any gaps identified are considered potential corruption risks. All ministries in Burundi including the Ministry of Justice are engaged, as of 2015, in a public contracting monitoring system with the support of BTC.

In the judicial sector, **court or trial monitoring** is commonly used to monitor the fairness, integrity, and transparency of the courts in administering their duties. Where a court makes obvious errors in applying the law or in ruling on procedural issues, or where judicial decision making appears to be arbitrary, this may indicate a deeper corruption issue. GIZ uses court monitoring reports in Georgia, including those produced by the Organization for Security and Cooperation in Europe, the US Agency for International Development, and Transparency International, to develop benchmarks for the judicial sector and discusses the reports with judges. Court user committees are one mechanism for monitoring court performance and

providing feedback to courts about their performance and about problems that users encounter. Such user committees have been supported by DFID in Malawi.[9]

Indices measuring corruption or integrity in a sector help governments, civil society, and donors assess the effectiveness of sectoral services. There are indices covering most sectors, including the judiciary. In-depth qualitative research illuminates levels and forms of corruption, as well as reforms required to tackle corruption. Donor agencies consult and conduct a range of research tools before they undertake projects in a sector, as well as during or after project implementation (also see the control and oversight tools mentioned above in section 3.3).

E-platforms use information technology to enhance transparency in a sector. For example, they may be used to handle complaints about sector services or to track service delivery deadlines and goals. In Mongolia, GIZ is supporting a unified information network in the judicial sector that enables citizens and those involved in a criminal trial to stay informed about the stage of proceedings in a particular case (Gramckow and Allen 2011).

Assessment and monitoring tools that have not yet been used in the judicial sector by U4 partners
Public Expenditure Tracking Surveys; citizen report cards.

Public Expenditure Tracking Surveys (PETS) trace and monitor the flow of resources from origin to destination. They determine where problems may occur in the system and how much money is being lost. They are usually carried out in sectors where money must pass through several layers of government or bureaucracy before reaching the service delivery point.

Checklists, such as **citizen report cards**, consist of a series of questions about areas and issues in a sector that may leave the sector open to abuse of authority and resources. Their aim is to assess the vulnerability of the system to corruption and find out whether existing controls are adequate. U4 partner agencies do not report having used PETS or citizen report cards in the judicial sector.

3.7   Budgeting and procurement tools in practice

Disclosure of contracts/procurement documents.

The **disclosure of contracts and procurement documents** in a particular sector, whether mandated legally or as a matter of open government practices, enables scrutiny and verification that services, infrastructure, or materials are being provided in accordance with political commitments. The Belgian Development Agency has supported such disclosure in their work with the Ministry of Justice in Burundi (BTC 2014). Several other budget and procurement anti-corruption tools have been used in sectors such as water, health, and education, but the U4 partners do not report their use in the judicial sector.

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9   Documents related to DFID's Justice for Vulnerable Groups in Malawi project are available on the DFID Development Tracker website, http://bit.ly/1IdemAQ.

Budgeting and procurement tools that have not yet been used in the judicial sector by U4 partners

Participatory budgeting; transparency in budget allocation; training for civil society and oversight institutions in understanding budget/procurement documents; integrity pacts; publish what you pay and transparency requirements; community participation.

Participatory budgeting involves creating a sustainable mechanism for public participation in budget allocation. Including local citizens in budget decision-making processes allows them to decide on financing priorities for a wide range of public services. Decisions can be either binding (for small, specific budget amounts) or framed as recommendations to the relevant elected public officials (in the case of the whole budget). Participatory budgeting can take various forms: polls, public discussions, Internet surveys, etc.

To enable effective monitoring of contracts or procurement documents, development agencies may support **capacity development for civil society and oversight institutions** in understanding contracts and/or procurement documents in a sector. The same is true for monitoring budget allocations and expenditure. Danida has special initiatives to support NGOs working on budget transparency in Burkina Faso and Mali. The NGOs help people understand budgets ("budget literacy" projects) so they can participate in budgeting and demand sufficient levels of budget information. The U4 partner agencies do not report training specifically related to judicial budgets, however.

Integrity pacts have been used in many sectors to help governments, businesses, and civil society fight corruption in public contracting. They involve an agreement between a government and all those bidding for its public sector contracts. Integrity pacts introduce an independent monitoring system led by civil society aimed at increasing accountability for public resources. They establish mutual contractual rights and obligations to reduce the risks and cost of corruption in public contracting, and they can be used in most infrastructure projects and also in small-scale public procurements.

"Publish what you pay" is an advocacy tool to promote greater transparency in a sector. It is most notably used in the extractive industries sector, where it enables citizens to track the money being paid for their natural resources and to hold their governments accountable for how the money is used. Using the tool involves campaigning for laws to compel companies to publish their payments to governments, such as taxes and licence fees in the countries where they do business; researching and **publishing reports on companies' transparency** in this regard; and carrying out advocacy to demand greater transparency.

Community participation in contract monitoring strengthens the capacity of civil society and citizens to monitor complex contracts, especially those concerning infrastructure projects or extractive industry deals. Communities are informed about how to engage in monitoring systems, how to find relevant information, how to analyse data, and how to use mechanisms for resolving grievances.

U4 partners have reportedly not used any of these tools in judicial sector programmes.

3.8   Awareness-raising tools in practice

Public information campaigns; informing service users about costs/fees/rights; youth education; anti-corruption and ethics training.

Working directly or through support to governments or civil society organisations, development agencies can take different approaches to raising public awareness about corruption in a sector and about how to tackle or report it. One common tool is a **public information campaign** to inform large numbers of citizens about their rights in a sector or about corruption issues in a sector. GIZ has supported campaigns in Central Asia to educate the public about their rights in relation to the courts. For example, in Uzbekistan they supported the broadcast of the radio programme *My Right*, covering legal issues in daily life. In Kyrgyzstan they produced a TV programme that ran from 2007 to 2008 and covered issues such as judicial reform and court trials (GIZ 2010).

Simple public information tools can be effective in **informing service users about their rights and about the costs or fees of a service**, to reduce the chances that they will be overcharged or misled. A customer charter is a covenant between a service provider and customers that details the services the utility or institution provides, its practices, as well as the rights and obligations of consumers. For example, posters in hospitals may list the fees for different services and medications and explain which ones are free. In Burundi, BTC supported the production and display of posters detailing official court fees to prevent court clerks from abusing their position by inventing spurious fees (BTC 2014).

Youth education programmes can teach young people about corruption and empower them to tackle corruption or promote integrity in a sector. Anti-corruption issues can be introduced in an age-appropriate way, and ethical values can be strengthened and ethical dilemmas discussed through education, games, theatre, role-play, debates, or sports activities. Danida supports ActionAid Denmark youth programmes in several countries, including Uganda, where ActionAid programmes sensitise and educate young people about corruption. Support is also provided to school ethics and integrity clubs (Danida 2011).

Anti-corruption and ethics training sessions coach employees or public servants across all sectors in how to recognise corruption, prevent it, and handle it. Such training may be tailored to specific sectors: in the judicial sector it is common for judges to receive ethics training that prepares them to deal with ethical dilemmas. Danida has financed specific anti-corruption training and ethics courses for magistrates at its training institute in Copenhagen (Danida 2011).

Awareness-raising tools that have not yet been used in the judicial sector by U4 partners
Mass protests or strikes.

Mass protests, demonstrations, marches, or strikes are sometimes undertaken by members of a professional body and/or by citizens or other stakeholders to voice concerns about corruption and demand reforms. Donors sometimes provide budget support to NGOs or professional bodies that advocate or engage in strikes or demonstrations, directly or indirectly enabling such actions to take place. None of the U4 partner agencies reported specifically financing such

activities, although some of the bodies they support may nonetheless resort to these types of anti-corruption protests.

3.9   Leadership tools in practice

Leadership training; peer-to-peer mentoring and exchange of experiences and good practices.

Anti-corruption **leadership training** may help form leaders who are effective and fair and operate with integrity. Such training prepares sector leaders for the types of corruption they may face in their role and enhances their capacity to use available anti-corruption and integrity-building mechanisms. BTC, MFAF, GIZ, Sida, Danida, and DFAT all have supported leadership training in the judicial sector.

Norad facilitates the **Corruption Hunter Networks** (Norad 2013), which brings together a small, select group of anti-corruption fighters, mainly prosecutors or other experts who have significant experience in investigating, prosecuting, sanctioning, and eradicating corruption. The network meets biannually to share experiences and advice on how to succeed in anti-corruption efforts. The network often hosts professionals from other sectors, such as the media, universities, or the judiciary, so that synergies are found and ideas emerge for new approaches or programmes to tackle corruption.

There are also programmes that establish regular exchanges, including **twinning or mentoring relationships**, between public officials in specific sectors in different countries. Officials such as judges may discuss sensitive issues, including how to handle ethical issues, more freely with peers from different countries than they might do with donor agency officers or experts from outside their profession. The Australian aid program takes an innovative approach to developing the capacity of judges in Indonesia. A twinning relationship, called court-to-court partnerships, exists between the federal and family courts of Australia and the Indonesian Supreme Court. Indonesian judges and court officials appreciate direct policy dialogue with their Australian peers and are more receptive to advice from fellow judges and court officers than from consultant advisers (Lindsey 2014; Cox, Duituturaga, and Sholikin 2012).

Leadership tools that have not yet been used in the judicial sector by U4 partners
Anti-corruption pacts.

Anti-corruption pacts consist of commitments made between sector or elected officials on one side and the private sector and/or civil society on the other, obliging officials to act with integrity when running for office or carrying out their mandate in a sector. None of the U4 partners reported implementing such pacts in the judicial sector. Indeed, involving judges and court officials in such pacts is a challenging proposition, given the need to maintain the independence of the judiciary and to maintain a *visible* distance between judges and all other actors, whether in the public sector, civil society, or private sector. Individuals or companies may come before the courts, in which case any pacts they had agreed with judges would jeopardise a judge's impartiality and ability to hear a case involving them. However, other officials such as ministers of justice and justice ministry officials may be able to commit to anti-corruption pacts.

4. Expanding the use of anti-corruption tools in the judicial sector

4.1   Where are the gaps?

When we started this study, we expected to find very few anti-corruption tools being used in judicial reform programmes. Although we only surveyed eight U4 partner agencies, we were positively surprised by the breadth of anti-corruption approaches overall. However, while we found a greater variety of tools than we expected, often a given tool was being used by only one agency in only one or a few places. There are some striking gaps between the overall list of tools we surveyed (Annex 1) and the reported use of these tools in judicial reform programmes. As pointed out in the introduction, this observation comes with an important caveat, namely that the information comes from a few, although well-informed, respondents within the U4 partner agencies.

When we look at efforts to prevent and detect corruption in the judiciary, we are struck by the particular absence of many control and oversight tools, budgeting and procurement tools, and human resource management tools being used in other sectors.

The lack of control and oversight tools comes as no surprise, given the risk that they may directly interfere with judicial independence. To a certain degree, also, maintaining judicial independence is a reasonable justification for resisting foreign involvement in the reform of human resources management and of budgeting and procurement in the judicial sector, since these are areas where the interface of the judiciary and government is closest and infringements on judicial independence are common. We did not ask our respondents for the reasons why their agencies were not using specific tools in the judicial sector but we did ask what they considered the most important obstacles or hurdles to applying anti-corruption tools more broadly in the sector.

4.2   What are the obstacles?

Building on the 2013 survey on mainstreaming anti-corruption in sectors (Boehm 2014), we asked the U4 partner agencies in our 2014 survey: "What would you consider to be the biggest hurdles to mainstreaming anti-corruption in the judicial sector?" (see Q4 in the questionnaire in Annex 2). Respondents could rate seven options, which we based on the previous survey with some small alterations, including the addition of "concerns about compromising the independence of the judiciary" as a possible response. Responses to the 2013 survey are shown in Figure 1, and responses to the 2014 survey on the judicial sector are in Figure 2.

Although neither of the two surveys is statistically representative, the questions were phrased differently, and different scales were used, taken together they show a consistent perception of the main obstacle to applying anti-corruption tools in sectors: lack of internal capacity within the partner agencies. In the survey specifically on the judicial sector, we found that "lack of internal capacities in designing and evaluating anti-corruption approaches in judicial sector programmes" is considered the main obstacle. All other hurdles were rated of medium importance on average, with "lack of interest in judicial sector programmes" seen as least important.

Figure 1. Obstacles to mainstreaming anti-corruption at sector level (0 = not important; 5 = very important)
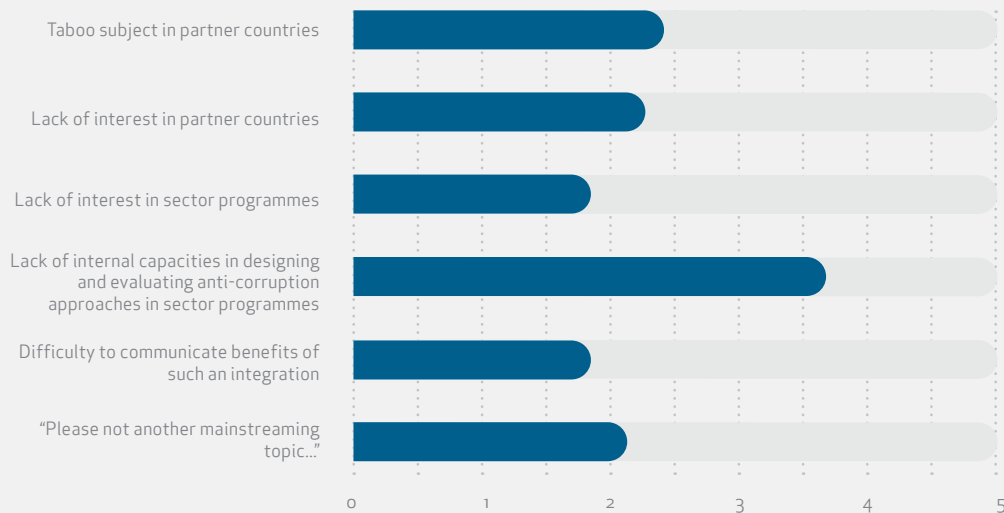
Source: U4 survey among 8 partner agencies (7 responses), 2012. Results are summarised in Boehm 2014.

Figure 2. Obstacles to applying anti-corruption tools in the judicial sector (0 = none; 3 = high)
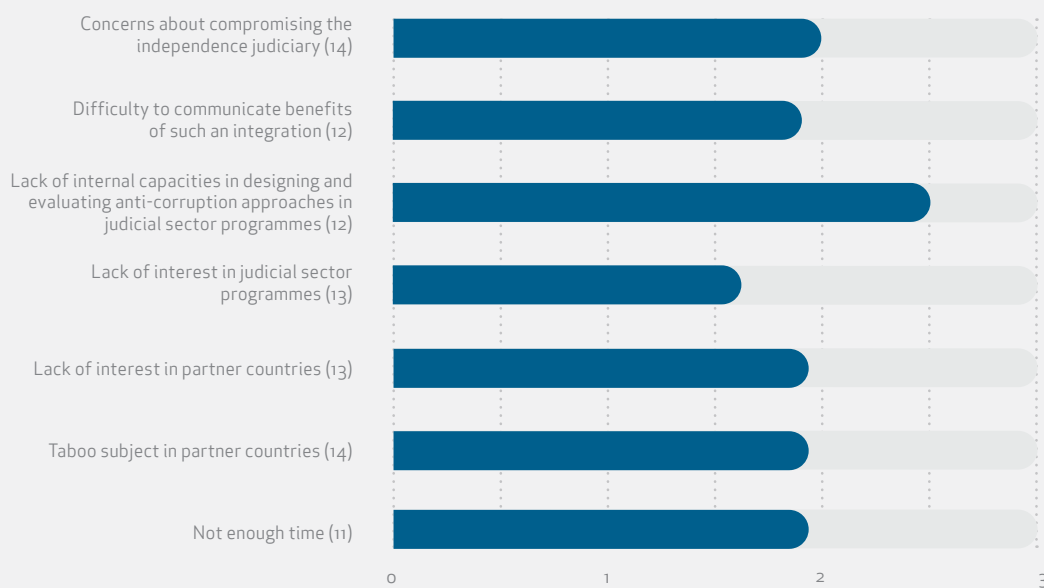
Source: U4 survey among 8 partner agencies (14 responses), 2014. The number of respondents who rated each option is given in parentheses.

When we consider the very limited application of anti-corruption tools by U4 partners in the judicial sector, together with the average perception of our respondents that a lack of internal capacity is a main obstacle in applying anti-corruption tools generally, this leads us to the following conclusion:

It is at least partly the lack of internal donor capacity and expertise in adapting existing tools for human resources management and budgeting/procurement to the judiciary that underlies the absence of these instruments from bilateral judicial reform programmes.

This is supported by an observation made elsewhere (Carothers 2006): that rule of law experts often have an educational background in law, if not practical experience as prosecutors and judges in their home countries, and can be somewhat removed from other disciplinary approaches. In other words, judicial reform programmes are often staffed by lawyers or former judges who are experts on specific substantial and procedural issues in law, not experts on budgetary tools, human resources management, or public administration.

4.3   Overcoming obstacles and bridging gaps: Cross-sectoral learning and project design

In their survey responses, U4 partners commented that budget monitoring (MFAF, Danida) and human resources management systems (MFAF, BTC) are two areas in which anti-corruption tools may have a positive impact on the quality of service delivery in the judicial sector. In the same vein, David Webber (2007, 1) argues that there is "a need for more effective integration of modern budgeting concepts and practices with judicial performance objectives and measures." Indeed, we would argue that non-lawyers should be involved in planning judicial sector programmes and wider rule of law reforms, and that the judicial sector can draw on the budgeting, human resources, and management expertise found in other sectors.

Webber's study is a rare account of budgeting practices in the judicial sector in developed and reforming countries, highlighting the benefit of improved budgeting practices. He reasons that "if judicial budget demands are not expressed effectively, the sector is unlikely to get the financial recognition it seeks, a recognition that effective judicial reform often genuinely requires." He admits the limited evidence base for the effects of the specific budgeting reforms he discusses. He also points out the need for improved court statistics and case data and for enhanced skills and professionalism among the managerial cadre in the judiciary where these reforms are introduced. Webber concludes that "the desire of many judges to maintain tight control of underfunded and poorly allocated budgets has only ever supported *illusions* of judicial independence" (2007, 66).

Monitoring the expenditure of the budget allocated to the judiciary is another area where donors can apply experience from other sectors. Public Expenditure Tracking Surveys have helped identify leakages in the allocation of funds in sectors such as health and education (see Rogall 2007), and they could be adapted for the judicial sector.

Similarly, many professionals throughout public service sectors are accustomed to regular evaluations of their performance. With careful attention to the special obligation to protect the independence of judges, and in line with Article 11 of the UNCAC, performance budgeting and evaluations could be implemented in the judicial sector to improve courts and hold them to account. After all, courts stand a better chance in the competition for scarce state resources if

they can demonstrate their value to society through performance budgeting techniques. Advice on budget monitoring and performance budgeting/management in the judiciary requires a different expertise and closer collaboration between public financial management, public administration experts, and legal reform experts if donors are to provide technical assistance to their partner countries.

One of the reasons why few budgeting and procurement tools are implemented in the judicial sector could be that, compared to other sectors like health or transport, the judicial sector involves fewer infrastructure investments or large procurement projects that are typically very vulnerable to corruption. These tools could be relevant to other parts of the justice sector, such as police and prisons. Besides advising institutions in the judiciary on budgeting, another important approach might be to support citizens and organisations such as legal advice centres in reading budgets and following expenditures, enabling citizens and civil society organisations to demand better services from the courts.

5. Concluding suggestions

The review of tools currently used in public service sectors indicates that a number of these tools have not yet been widely implemented in the judicial sector. The wealth of knowledge that has accumulated about the use of these tools in other sectors could help inform their implementation in the judicial sector.

Based on our survey findings, the application of a wider range of anti-corruption tools in the judicial sector appears to be hampered by internal capacity constraints within donor agencies and not just by concerns about compromising judicial integrity. This observation should be tested in more depth, drawing on more sources than those used for this study. Meanwhile, increased, facilitated interchange between different sector specialists during various phases of a project would certainly do no harm. It would allow for the transfer of knowledge, especially about tools that have not been much used in judicial reform programmes, such as oversight and performance management tools.

Although we found examples of anti-corruption tools being introduced in the judicial sector, overall these examples are scattered and isolated, and most tools are not used by all U4 partners. The distillation and sharing of lessons learnt from these projects seems particularly useful.

Multilateral agencies such as UNODC, UNDP, and the World Bank may operate with political and capacity constraints distinct from those affecting bilateral agencies. Their ability to apply anti-corruption tools in the judicial sector may be greater or lesser than that of particular bilateral agencies. Where the influence and capacity of the multilaterals is greater, then bilateral agencies may gain from supporting them in efforts to apply anti-corruption tools that are considered too politically sensitive for a bilateral agency. Indeed, one survey respondent from a U4 partner agency stated that after repeatedly experiencing internal opposition to their judicial reform efforts, they began working with a multilateral agency to carry out further work on judicial integrity in a partner country.

Ultimately, the right tools must be identified for each country based on the actual risks, vulnerabilities, and reform needs of its judicial sector. Unfortunately, as revealed by another recent U4 study, there are as yet few corruption risk assessment tools adapted for the judiciary and other justice sector institutions (Jennett 2015). There is rising awareness of the need for such tools, especially tools that engage stakeholders both internal and external to the judiciary (Messick and Schütte 2015). Here as well, the knowledge of experts on oversight, human resources and budgeting processes in other sectors could inform the development of risk assessments for the judicial sector.

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Annex I: Survey questionnaire

Question 1

Does your agency engage in judicial reform programmes/projects? Please mark with an X.

Yes

No

If yes, could you briefly describe the focus of these interventions? (e.g., strengthening independence; improving accountability; legal training…):

Question 2

What types of instruments or approaches are used in your agency in order to promote the integration of anti-corruption measures at sector levels in countries/regions? (Please mark with an X if a measure is used in the judicial sector and note down other sectors in which a measure may be also used.)

Anti-corruption measure		Judiciary (please mark with an X)	Other sectors (please list)
Are the following policy and legislation priorities supported/ implemented by your agency in a sector?	Anti-corruption strategies for a sector		
	Access to information legislation/regulation for a sector		
	Whistle-blowing system for a sector		
	Development of integrity/transparency principles or standards for a sector		
	"Open Meetings" legislation/regulation (to improve citizen access to information)		
	Lobbyist registration		
	Please also specify any others not included here		

Are the following control/oversight priorities supported/ implemented by your agency in a sector?	Establishing/strengthening sectoral regulatory/oversight bodies		
	Establishing/strengthening Ombudsperson for a sector or institution		
	Strengthening media's oversight and investigative capacities in a sector		
	Integrity reviews of sector/s		
	Sectoral social audits		
	Sectoral service delivery surveys		
	Supporting civil society oversight in sectors (e.g., complaint mechanisms run by civil society)		
	Naming and shaming corrupt individuals/companies or blacklists in a sector		
	Performance benchmarking (e.g., by a regulator in a sector)		
	Please also specify any others not included here		
Are the following human resources integrity mechanisms supported/ implemented by your agency, both within the donor agency and in partner country sectors?	Recruitment standards for a sector or (sector) institution		
	Integrity management systems for a sector or (sector) institution		
	"Conflict of interest" policy for a sector or (sector) institution		
	"Code of conduct" systems for a sector or (sector) institution		
	Assets/income declaration for a sector or (sector) institution		
	E-recruitment system for a sector or (sector) institution		
	Reports on recruitment and conditions in sectors/institutions		
	Sectoral ethics trainings		
	Civil society/layman/independent (non-governmental) expert involve¬ment in selection of state officials in sectors/judges		
	Performance targets within a sector or a sector institution (e.g., to qualify for salary increase, bonus payment, or promotion)		
	Please also specify any others not included here		
Are the following assessment/monitoring instruments supported/ implemented by your agency in a sector?	Corruption risk analysis in a sector		
	Public contracting monitoring system in a sector		
	Public Expenditure Tracking Survey in a sector		
	Court/trial monitoring (including donor support for civil society monitoring)		
	Indices measuring corruption or integrity in a sector		
	Anti-corruption research (e.g., reports on levels of corruption or measures against corruption in a sector)		
	Monitoring of income/asset disclosures in a sector		
	"Citizen report cards" in a sector		
	E-platforms for sector transparency (e.g., procurement, service delivery/cost levels, complaints, feedback)		
	Please also specify any others not included here		

Are the following budgeting/procurement measures supported/ implemented by your agency?	Participatory budgeting in a sector		
	Measures to promote transparency in budget allocation in a sector		
	E-procurement in a sector		
	Integrity pacts in a sector		
	"Publish what you pay" in a sector		
	Community participation in contract monitoring (especially for infrastructure)		
	Disclosure of contracts and/or procurement of documents (within the sector or to the public)		
	Capacity development for civil society and oversight institutions in understanding contracts and/or procurement documents in a sector		
	Please also specify any others not included here		
Are the following awareness-raising approaches supported/ implemented by your agency?	Public information campaigns for a sector		
	Youth education on sector issues		
	Education and trainings for sectors		
	Mass protests, demonstrations, marches, or strikes in a sector		
	Please also specify any others not included here		
Are the following leadership development tools supported/ implemented by your agency?	Leadership trainings for a sector or (sector) institution		
	Anti-corruption pacts with senior officials/elected representatives in a sector		
	Please also specify any others not included here		

Question 3

Please give some specific examples of the anti-corruption instruments or approaches used in judicial sector programmes and in which countries. If possible, please provide contact details of people who might be able to talk more about this experience.

Question 4

What would you consider to be the biggest hurdles to mainstreaming anti-corruption in the judicial sector? Please rate the importance of these hurdles, from no importance to high importance.

Hurdles for applying anti-corruption tools in judicial sector	None	Low	Medium	High	Don't know
Concerns about compromising the independence of the judiciary					
Difficulty to communicate benefits of such an integration					
Lack of internal capacities in designing and evaluating anti-corruption approaches in judicial sector programmes					
Lack of interest in judicial sector programmes					
Lack of interest in partner countries					
Taboo subject in partner countries					
Not enough time					
Other (please specify)					

(Hurdles are adapted from findings in the earlier research paper cited above)

This U4 study investigates whether and how the judicial sector could benefit from anti-corruption measures that have proved useful in other sectors in improving the quality of the services they provide to users. Based on a survey and interviews among key informants in U4's partner agencies in 2014, we found a variety of anti-corruption tools already included in the agencies' bilateral judicial reform programmes. The tools are not frequently employed, yet, and they are sometimes implemented under a different label to avoid the sensitive implications of tackling corruption among those charged with upholding the law. Remarkable is the absence of support for the use of many control and oversight tools, budgeting and procurement tools, and some human resource instruments to prevent and detect corruption in the judicial sector.

The general perception of the survey respondents is that it is at least partly the lack of internal donor capacity and expertise in adapting existing anti-corruption tools to the judicial sector that underlies the absence of these instruments from bilateral judicial reform programmes. Closer collaboration and knowledge transfer between experts in the judicial sector and other sectors on oversight, human resources, and budgeting processes could help close this gap.

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