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**Submission to the Office of the High Commissioner for Human Rights on
the negative impact of corruption on the enjoyment of human rights**
**Response to forty-first session in 11 July 2019, the Human Rights Council
resolution [41/9](#)**

17 October 2019

Penal Reform International (PRI) welcomes the OHCHR's call for input for the forthcoming thematic report on challenges faced and best practices applied by States in integrating human rights into their national strategies and policies to fight against corruption.

Corruption in criminal justice systems continues to be a key strategic priority in Penal Reform International's work.

This submission responds to the call for inputs, drawing on research and PRI's observations from a number of countries in all regions. Our submission will provide a general overview of how corruption negatively impacts the human rights of those involved in the criminal justice system on a global scale.

As an organisation PRI has worked considerably on addressing corruption in criminal justice systems in Kazakhstan and believe the example is illustrative of the situation in other countries where information on corruption is not as accessible. Much of the information below is drawn from our annual report series, *Global Prison Trends*,¹ and our briefing papers on addressing corruption in prisons and the police in Kazakhstan.²

How are human rights for those in criminal justice systems impacted by corruption?

I. Current situation of criminal justice systems and corruption

There has been growing recognition of the problem of corruption within penitentiary settings, and its impact on human rights of those detained, although it is not possible to say whether its incidence is increasing due to the limited data available.

The primary focus of this submission will be on corrupt prison staff and penal officials (such as judges), due to the overwhelming global prevalence of this issue and the grave impact this form of corruption has on the rights of people who are imprisoned or come into contact with criminal justice systems.

The first point that needs to be made is poor detention standards exacerbates corruption. As the UN Subcommittee on Prevention of Torture (SPT) has found:

'[w]here the general conditions of detention fall below minimum acceptable standards, it is more likely that corrupt prison officers may extort money from inmates with financial means in order for those detainees to have access to certain privileges, services or benefits'.

This is particularly true when prison staff are not adequately paid or where lack of staff means that trusted inmates can take advantage of their privileged position to extort money or favours from other, more vulnerable, inmates.³ The Subcommittee believes that petty corruption perpetrated by underpaid public officials is widespread in many places of detention, and particularly in prisons, for both pre-trial and sentenced prisoners. Its 2015 annual report points out that corruption has a disproportionate impact on the poorest detainees and prisoners, 'since they may be unable to pay bribes, for example to secure access to legal representation, family members, medical professionals or other persons, to avoid further detention, to be transferred to another place of detention or to otherwise secure better conditions and treatment'.⁴

Examples of alleged corruption which have come to light are diverse: in Zimbabwe, where 30 Justice Ministry officials (including 24 from the prison service) were accused of stealing USD\$700,000 intended for the upkeep of prisoners;⁵ sexual favours being given to staff in return for better treatment (Philippines, Zambia);⁶ and improper business activities using prison labour (Cambodia).⁷ In Brazil, it has been reported that prisoners, known as *chaveiros* or 'keyholders', are given the keys to cells and pavilions and use their power to charge a weekly tax, sell places to sleep or sell drugs.⁸ The UN Subcommittee on Prevention of Torture has expressed concern about a similar system of *chefs de cellules* which it observed in Gabon.⁹ In Mali, where the regime was found to be 'riddled' with corruption, 'detainees who do not pay never leave their cell, sometimes for several years, except to use the toilet once or twice a day, which constitutes cruel, inhuman and degrading treatment'.¹⁰

Human rights violations in corrupt penitentiary systems

For suspects and defendants, corruption can impact negatively on their right to a fair trial, access to legal representation and or sentencing upon conviction. For example In the scandal known as 'Cash for kids', two Judges in Pennsylvania, US were found to have been receiving money from a builder of two private, for-profit juvenile facilities, in return for imposing harsh sentences on juveniles brought before their courts to increase the number of inmates in the detention centres.

Corruption may act in a number of ways at the trial stage. PRI's research in East Africa found that some sentencers may be reluctant to impose community service as an alternative to imprisonment because it will be assumed that they have received a gift of some kind.¹¹

Offenders are entitled to be free of inhumane and degrading treatment, be safe, and have a right to healthcare while in penitentiary systems, and the corruption of officials often leads to violations of these rights. For example, women offenders are particularly at risk of sexual violence at the hands of corrupt prison staff. Dependence on prison staff for access to their basic needs has been shown to increase the vulnerability of women prisoners to sexual exploitation, as it drives them to 'willingly' trade sex for 'favours' (including access to hygiene articles). In the Philippines, women have reported the increased status enjoyed by having a boyfriend among the staff, which allowed them to obtain better accommodation.¹² In December 2015, the Miami Herald newspaper detailed instances of corruption, coerced sex and trading sex for contraband at the USA's largest women's prison in Florida.¹³ In Yemen, a study found that guards were impregnating female prisoners and marrying them to men who paid bribes to the guards.¹⁴

When food security and safety are problems in a country in general, this is frequently reflected in its prisons. Many countries do not allocate sufficient budget to adequately feed their prison populations and corruption may also siphon money away from where it is needed. Where food in detention is insufficient, unhygienic and lacks nutrition, prisoners face serious, if not permanent, health issues, and even starvation. Adequate nutrition is

of particular importance for vulnerable groups including pregnant or breast-feeding women, sick prisoners and for children held in prison with a parent.¹⁵ Similarly, health rights of people in prison are affected when access to basic sanitation practices and medical care is contingent on favors to prison staff. In Tunisia it was reported by an ex-prisoner that inmates had to pay the prison's agents money or cigarettes to shower or see the doctor.¹⁶

II. Causes of corruption in prison staff

A. Poor remuneration

While salary levels and other conditions of service should reflect the important contribution made to society, the salaries of prison staff, 'are normally quite inadequate, which contributes to dissatisfaction and corrupt practices'.¹⁷ The UN Nelson Mandela Rules requires

There appears considerable variation among salaries in higher income countries. In the US state of Texas, starting salaries for correctional officers are less than USD\$2,700 a month¹⁸ and in Western Australia the equivalent of USD\$4,000.¹⁹ In lower income countries, pay rates can be very low and can render staff vulnerable to corrupt practices. The former UK Ambassador to Afghanistan reported being told by the Governor of Pul e Charkhi prison that, at a time when an Afghan family needed USD\$100 a month to survive, he was paid USD\$42 and his guards USD\$17 and, '[s]taff had no option but to offer supplementary services to the prisoners in return for money'.²⁰ However, in lower income countries staff are paid very little, forcing them to live in poverty or make more money through corruption.

While creative measures can be taken to reduce corruption, for example, by moving staff frequently to new locations or to employment without direct contact with prisoners, this is not always possible or desirable. Addressing pay and working conditions is required to resolve the problem.

Prison officer remuneration and benefits (eg. pension, health insurance) should be aligned with comparable public service professions, for example police officers, teachers or nurses, and take into account the complex and sometimes dangerous nature of the role.

B. Poor work environment

There are other aspects of working conditions that have an impact on prison staff. For example, where detention conditions are reported to be a concern, or even amounting to torture or other forms of ill-treatment, prison staff may be subject to the same conditions as inmates. These may include poor physical infrastructure, insufficient space, air and light, a lack of sewerage and waste disposal or other unhygienic conditions.²¹

In lower and middle income countries, accommodation provided to prison staff may be sub-standard. A report in Kenya, for example, found that staff quarters were in a deplorable condition.²² In neighbouring Uganda, new accommodation was constructed for staff at Luzira Prison, providing major improvements to the almost slum dwellings available previously.²³ Irrespective of accommodation standards, prisons are often located in isolated places, away from urban settlements, making it difficult for prison officers to access services and facilities such as shops, doctors, social activities and schools for their children.

The organisational culture of a prison has a significant influence on the working conditions and experiences of prison officers employed within it.²⁴ In France, the General Controller who inspects the country's prisons has reported consistently since the beginning of his mission (in 2011), that 'respect for human rights in prison [...] was also dependent on the working conditions of staff' and that prison officers who feel valued, trusted and respected at work are more likely to apply these values to the treatment of prisoners.²⁵

C. Poor public perception of position

In many parts of the world, work in prison is not highly valued or recognised. Typically, this is also reflected in a lack of active recruitment policies, in low salaries, other unattractive conditions of service, low social status of the work, or competition from other professions such as law enforcement agencies. As the UNODC put it:

“unfortunately [...] the status of prison staff is very low in most countries. Little attention is given to their proper recruitment and training. A large majority will not have sought a career in the prison service in particular, eg. they might be former military personnel, or people who have been unable to find other employment.”²⁶

In the United Arab Emirates, police recruits with the lowest scores in graduation tests are assigned to the prison system.²⁷ A PRI study found that in Kazakhstan ‘staff working in institutions for children in conflict with the law thought that the biggest problems they faced were the lack of resources, poor working conditions and low pay’.²⁸ In Northern Ireland, it was reported in 2015 that, of the 411 staff who had joined the prison service since 2012, 99 had left. The dominant reason, according to the trade union, was low pay, although low staffing levels and threats were also significant factors.²⁹

In order to address the problem of the social status of prison staff, the Nelson Mandela Rules encourage prison administrations to improve awareness of the importance of this work as a social service.³⁰ Salaries should be adequate to attract and retain suitable staff, and benefits and conditions of employment should reflect the exacting nature of the work as part of a law enforcement agency. Norms in the Americas, for example, explicitly require that personnel of places of deprivation of liberty be provided with the ‘necessary resources and equipment so as to allow them to perform their duties in suitable conditions, including fair and equitable remuneration, decent living conditions, and appropriate basic services’.³¹

While international standards express a clear recommendation that staff should have civilian status,³² in many countries there are strong links between the prison system and the police or military forces. In some countries there is no specific profession of prison officer, but rather they form part of the police, military or security forces. In the Dominican Republic, a strategy has been put in place to transform the police and military administration system – which allowed for the abuse of prisoners and was corrupt, unhealthy, unsafe and completely lacking in human rights observance – into a ‘new model’ correctional service. New staff have been recruited to the system with enhanced pay and increased responsibilities. Corrupt practices are met with instant dismissal.³³

III. Measures being taken to address corruption

Key Recommendation: Prison administrations should take measures to address corruption in prisons, which should include: increasing transparency, accountability and oversight; establishment of clear procedures for and record-keeping of decisions; and improvements in recruitment and training of staff.³⁴

Penal Reform International has published two comprehensive publications on measures being taken to address corruption in criminal justice settings. Please see the following reports for a more in-depth examination:

Penal Reform International, *Guidance document for the Unit on key causes of corruption in law enforcement settings and measures to take to prevent corruption in law enforcement settings*, 2017, <https://cdn.penalreform.org/wp-content/uploads/2018/03/Guidance-document-for-the-Unit-on-key-causes-of-corruption-in-law-enforcement-settings-and-measures-to-take-to-prevent-corruption-in-law-enforcement.pdf>;

Penal Reform International, *Training Module For Public Monitoring Commissions (Pmc) On Identifying And Preventing Corruption In Law Enforcement Settings*, 2017, <https://cdn.penalreform.org/wp-content/uploads/2018/03/Training-module-for-PMCs-on-identifying-and-preventing-corruption-in-la-w-enforcement-settings.pdf>

A. Increasing transparency, accountability and oversight

Due to the closed, insular nature of prison systems there is a specific vulnerability to acts of corruption as there is a great risk of insufficient public awareness through internal and external auditing, and monitoring and inspection mechanisms. Improving the situation of corruption in prison requires increased oversight and transparency of the happenings within prisons. Appropriate compliant mechanisms ought to be instituted in penitentiary systems for prisoners where they can report the corrupt practices of prison staff without fear of retribution.

Specialised taskforces aimed at uncovering prison staff corruption are also a means States are implementing across the world to increase the transparency, accountability and oversight in prison. For example, in the United Kingdom, a specialist taskforce, the "Counter Corruption Unit", was just unveiled this year to target corrupt prison officers who smuggle contraband into penitentiary systems.³⁵ This is one example of a means of decreasing the culture of impunity for prison staff who violate the rules.

B. Procedural Clarity and Record-Keeping

There needs to be clear guidelines established on the use of punishments and encouragements/incentives by prison staff given out to people they are supervising. As mentioned previously, the inability or unwillingness of some prisoners to provide favours to prison staff can result in ill-treatment, and often incorrect information kept regarding the specific prisoner. A survey of prison staff confirmed that large corruption risks lie precisely in the punishment and encouragement measures. As noted above, wealthy convicts try to establish unofficial relations with responsible staff of the penal correction agencies, allowing them to receive undeserved encouragement and avoid collecting or prematurely withdrawing the imposed punishments.

The risk of corruption abuse is especially increased during the period preceding the trial about possible parole and commutation of the undischarged portion of sentence to a milder form of penalty. In such cases, court usually considers the characterizing materials submitted by the administration of the institution. Because of corruption factors, these documents may not have information about the previous penalties of the convicted person. It is quite easy to remove extracts of orders for penalties from personal file in order to create an imaginary positive opinion about a prisoner. In this case, the paper trail of previous penalties will remain only in the official documents of the institution (nomenclatural files). No one will recheck them without special order.

One of the ways to neutralize this corruption-related factor could be the creation of database of prisoners with full information about them. With the aim of the verification of materials submitted by the penalty institutions to the courts, the prosecutor's office, as well as the judges while considering the applications of the convicted persons, could use this data and have more complete and objective information about the convicts. Such official databases are used in many developed countries, where a limited number of officials have access to them through personal electronic key.³⁶

Creation of a similar database was repeatedly initiated in Kazakhstan. Thus, "development and implementation of a centralized automated database" were included into the Plan of Program for the Development of the Correctional System in the Republic of Kazakhstan for

2012-2015. 617 million tenge³⁷ were budgeted for this activity in 2015. Later, this idea migrated to the Action Plan for the implementation of the State Program for Further Modernization of the Law Enforcement System of the Republic of Kazakhstan for 2014-2020. 615.9 million tenge³⁸ were budgeted for its creation and implementation during 2014-2015.

C. Recruitment and Training of Staff

International standards are clear that staff should receive initial training before they start work, as well as continuing in-service training (see for example the UN Nelson Mandela Rules). Specialist training should be provided for staff who work with specific categories of prisoner, such as women (in line with the UN Bangkok Rules), young persons and prisoners with special needs, foreign nationals or prisoners with mental health problems.³⁹

However, PRI has observed there is substantial variation in the recruitment and training of prison staff. Basic induction training may last a matter of weeks or much longer. In England and Wales, basic training will be increased from six weeks to 12 weeks in 2016, with ten weeks at a learning centre and two weeks in a prison.⁴⁰ In the Australian state of Victoria, new recruits attend a pre-service training course that runs for seven weeks.⁴¹ Canada's initial course comprises three stages, including eight weeks online learning followed by 10-11 weeks classroom training.⁴² In Hong Kong, recruits attend a 26-week residential training course.⁴³ Officers in the Indian state of Maharashtra attend a 12-month basic training course,⁴⁴ while in Norway prison officers go through a two-year education at the Staff Academy, where they receive full pay and are taught various subjects like psychology, criminology, law, human rights and ethics.⁴⁵ Since September 2007, all newly recruited prison officers in Ireland complete an accredited two-year Higher Certificate in Custodial Care, which replaced the previous nine-week induction training. The course includes modules on communication and interpersonal skills, human rights, pro-social modelling, health and safety, prison-craft, the sociology of Irish society, equality and diversity, healthcare, prison law, education, mentoring, and ethics.⁴⁶

Some countries have established prison training academies where induction and specialist training takes place. This is not only the case in Europe where there is a network of such institutions.⁴⁷ In India, the Academy of Prisons and Correctional Administration was established in Vellore in 1979, financed by the four southern states, with the aim of preparing correctional officers 'to achieve the goals of Reformation, Rehabilitation and Reintegration of Prisoners into Society'.⁴⁸ The training academy in the Dominican Republic has been central to the transformation of the previously corrupt and militaristic prison culture into a professional public service.⁵¹

The benefits of conducting these training sessions for potential prison staff are not limited to improving their knowledge of the rights of, and the best practices in dealing with people who are imprisoned. In undergoing these training courses, the position of prison staff is likely to be seen as more highly respected, as fulfilling the duties of the job requires specialised knowledge that few people possess, in addition to the recruitment requirements being more stringent.

Conclusion

PRI calls for States to pay more attention to the criminal-executive system, increase its authority in the public consciousness and make its activities transparent, as well as make the penitentiary service more prestigious. Andrew Coyle, one of the leaders of the International Center for Prison Studies, noted:

"in any democratic society the work in prison is a public service. Prisons, as well as schools and hospitals, are organizations that to be administered by civil authorities

for the benefit of society. The prison authorities must, to one extent or another, report to the parliament, and the public should regularly receive information about the situation there. Ministers and senior executives should make it clear that they highly value the work done by prison officials, and the general public should always remember that work in prison is an important public service ⁵².

For a specific case study on corruption in the criminal justice system in Kazakhstan please refer to the following:

Penal Reform International, *Importance of prevention of corruption among prison staff*, 2018 <https://cdn.penalreform.org/wp-content/uploads/2018/03/Briefing-paper1-Eng.pdf>;

Penal Reform International, *The importance of preventing corruption among employees of penitentiary institutions*, <https://cdn.penalreform.org/wp-content/uploads/2018/03/Briefing-paper-1-Second-edition.pdf>;

Penal Reform International, *Guidance document for the Unit on key causes of corruption in law enforcement settings and measures to take to prevent corruption in law enforcement settings*, 2017, <https://cdn.penalreform.org/wp-content/uploads/2018/03/Guidance-document-for-the-Unit-on-key-causes-of-corruption-in-law-enforcement-settings-and-measures-to-take-to-prevent-corruption-in-law-enforcement.pdf>;

Penal Reform International, *Training Module For Public Monitoring Commissions (Pmc) On Identifying And Preventing Corruption In Law Enforcement Settings*, 2017, <https://cdn.penalreform.org/wp-content/uploads/2018/03/Training-module-for-PMCs-on-identifying-and-preventing-corruption-in-law-enforcement-settings.pdf>

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