



DETENTION
MONITORING
TOOL

Corruption in prisons

A guide for detention monitors




Corruption in prisons: a guide for detention monitors


This guide was produced by Penal Reform International (PRI) and the U4 Anti-Corruption Resource Centre (U4). Its contents are the sole responsibility of PRI and the authors. This guide is developed with funding from the U4 partner agencies from Canada, Denmark, Finland, Germany, Norway, Sweden, Switzerland, and the United Kingdom. All views in this text are the authors', and may differ from the U4 partner agencies' policies.


U4 and PRI thank the following for contributing to this monitoring guide through participation in an expert meeting and review of drafts: Marie Hutton, lecturer in criminology at the School of Law, University of Sheffield; Christian Loda, administrator at the European Committee for the Prevention of Torture; Philipp Meissner, inter-regional advisor and focal point for prison reform at the Crime Prevention and Criminal Justice Section, United Nations Office on Drugs and Crime; and John Podmore, independent expert and former head of the Corruption Prevention Unit, HM Prison Service of the United Kingdom. María Luisa Romero, member of the United Nations Subcommittee on Prevention of Torture, also participated in the expert meeting, representing the Subcommittee as part of its commitment to the exchange of expertise and best practices in the field of torture prevention. We also acknowledge Andreea Lachs, independent consultant, for research and drafting support.

This publication may be freely shared, cited and abstracted except for sale or in conjunction with commercial purposes. Due credit must be given to this publication. The full citation for this publication is as follows: Penal Reform International & U4 (2024). Corruption in prisons: a guide for detention monitors. London: Penal Reform International. Translating or reproducing this publication in its entirety must be approved by PRI; please contact publications@penalreform.org.

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Published in August 2024

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Why detention monitors need to address corruption in prisons

Corruption remains a constant challenge throughout criminal justice systems in many countries. It has serious implications for the human rights of suspects, defendants, detainees, and their families, as well as for the effective administration of justice and penal reform efforts. Prisons are particularly vulnerable to corruption due to their opaque nature, inherent power imbalances, and limited oversight. Identifying and tackling the presence of corruption in prisons is a complex undertaking. Acknowledgement of corruption as a problem that needs to be addressed is a first step and signifies a progressive and reflective system.

Corruption in prisons may take the form of petty bribery, often involving mid- or low-level public officials, for prisoners' access to basic necessities, trafficking of contraband, or other individualised benefits. It can also include large-scale misappropriation of funds, sexual corruption, and violence, often with impunity for perpetrators. Corruption can lead to unequal treatment by prison staff of individuals under their supervision, with a disproportionate impact on those belonging to vulnerable groups. Staff may ignore criminal and corrupt activity run from or committed in prisons, which is typically linked to organised crime. As prisons do not operate in silos, the broader social and judicial context affects the prevalence and nature of corruption in each prison system and in individual facilities. Factors may include the presence of civil conflict, levels of human rights compliance, and the strength or weakness of the rule of law, which in turn affects independence of the judiciary or freedom of the press.

With unique access to prisons, detention monitors can play a pivotal role in tackling corruption in prisons, particularly where there is a lack of political will to address it. They are able to assess and document evidence that can be used for dialogue, advocacy, and policymaking at the level of individual facilities or centralised prison administrations or ministries. Monitors can bring the issue of corruption to the forefront by engaging in advocacy themselves as well as by supporting other groups, such as civil society organisations, that are working on anti-corruption efforts or penal reform. Moreover, monitors can provide expert recommendations on practical anti-corruption measures and advocate for prioritisation of such measures.

To support detention monitors in addressing corruption, this guide, co-published by Penal Reform International and the U4 Anti-Corruption Resource Centre, provides an overview of corruption risks in the prison environment and recommends follow-up steps when corruption is detected. It can be used by any detention monitoring body, including National Preventive Mechanisms mandated under the United Nations (UN) Optional Protocol to the Convention against Torture, as well as by regional and international bodies, National Human Rights Institutions, judicial monitors, ombudsperson offices, and civil society monitors. It can also serve as guidance to policymakers working to address corruption in prisons, and to prison staff and officials.

Through an expert meeting held in London in November 2023, input from a range of stakeholders has enriched the guide, which supplements Penal Reform International's Detention Monitoring Tool, co-published with the Association for the Prevention of Torture.¹

1. Penal Reform International (PRI), Detention monitoring tool: Addressing risk factors to prevent torture and ill-treatment, 2015–2022, www.penalreform.org/issues/torture-prevention/preventive-monitoring/tools-resources/.

Understanding corruption

Corruption in prisons negatively impacts the human rights of people detained, particularly those belonging to vulnerable groups, and their chances of rehabilitation.² It ultimately impedes the purpose of imprisonment, which is to reduce reoffending and improve public safety through rehabilitation, as set out in the UN Standard Minimum Rules for the Treatment of Prisoners, known as the Nelson Mandela Rules.

The direct, day-to-day impact of corruption on prisoners can be seen in instances where staff demand bribes from detainees and their families for the provision of basic needs. There are also indirect impacts on the human rights of prisoners and prison staff, typically in cases of grand corruption. For instance, embezzlement of a budget allocation for daily food allowances or for improvement of physical detention conditions (such as infrastructure upgrades or installation of new toilets) in effect violates the rights of prisoners daily.

Staff, management, and high-level officials, on the one hand, and prisoners and their families, on the other, can all be subject to corruption or participating in corruption. The risks of being harmed or otherwise affected by corruption in prison are exacerbated for persons belonging to vulnerable groups. This is discussed further on page 14. Monitors should also be cognisant of the risks to staff living in the communities from which the prison population is drawn, as there may be community and cultural pressures on them.

Defining corruption

There is no universal definition of corruption, so detention monitors should refer to national legislation and/or codes of conduct and other professional standards. Where national guidance is not available, international bodies' definitions of corruption can be used. The most widely used short definition of corruption is 'abuse of entrusted power for private gain'.

Variations exist, but they tend to include three common elements: *abuse* (misuse, violation), *entrusted power* (duty, office, etc.), and *private benefit*.³

It is important for monitors to be clear on the definitions and scope of corruption in national (and international) law in order to retain legitimacy. Corruption remains a contentious topic in many prison systems, and making allegations or documenting evidence of corruption is highly sensitive, comparable to making allegations of torture. Given that corruption is often hard to prove, detention monitors should document information that suggests the presence of corruption, or at least a risk of corruption, providing a clear factual basis where possible.

Monitors should bear in mind that some behaviours or acts may or may not constitute corruption. For example, physical violence against a prisoner by prison staff is not necessarily an act of corruption. But in some cases it may be, if the purpose of the abuse is to derive undue private advantage.

The UN Convention against Corruption (UNCAC) provides a list of acts that constitute corruption and must be criminalised.⁴ Detention monitors can rely on this list in assessing corruption, particularly if the government of the country where the prison is located is a signatory to and/or has ratified the Convention. The list of acts includes:

- bribery
- intentional embezzlement
- misappropriation or other diversion
- trading in influence (occurs when a third party acts as a go-between, connecting a decision maker with a party that seeks improper advantage)
- abuse of functions
- illicit enrichment
- laundering of proceeds of crime

2. See, for example, Bicknell, C., A hydra in detention settings: A context-based inquiry of corruption's many heads, *Human Rights Law Review* 17, no. 1 (2017): 1–31, academic.oup.com/hrlr/article-abstract/17/1/1/2726327.

3. U4 Anti-Corruption Resource Centre, Basic guide to anti-corruption, 2024, www.u4.no/topics/anti-corruption-basics/basics.

4. See United Nations Office on Drugs and Crime (UNODC), United Nations Convention against Corruption (hereafter, UNCAC), Articles 15–25, www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf.

- intentionally concealing or continuing to retain property
- obstruction of justice

Other recognised acts of corruption include ‘account offences’, which are acts or omissions intended to commit, conceal, or disguise corrupt conduct. Examples include creating or using an invoice or any other accounting document or record containing false or incomplete information, or unlawfully omitting to make a record of a payment.⁵

While the UNCAC does not specifically address the gendered impacts of corruption (including sexual corruption⁶) or the importance of adopting an intersectional approach, the UN General Assembly has made a commitment to better understand the linkages between gender and corruption. Furthermore, a resolution by the Conference of States Parties to the UNCAC in 2023 for the first time acknowledged that ‘demanding sex or acts of a sexual nature within the context of the abuse of authority may be considered a particular form of corruption, which is primarily perpetrated against women and girls’.⁷

Who engages in corruption

Corruption involves public servants, including those working in prison administration or as frontline staff in prisons. As stipulated in the UNCAC, a public official includes, in addition to persons holding formal state office, ‘any other person who performs a public function, including for a public agency or public enterprise, or provides a public service’.⁸ Corruption may also involve persons to whom a public function has been delegated, such as staff of private companies or civil society organisations that have been contracted or permitted to deliver goods and services in prisons. Examples include food suppliers, rehabilitation specialists, health care providers, and lawyers, among others.⁹

Prisoners and their families or associates may also engage in corruption, although it should be borne in mind that in some cases this involvement is coerced or results from power imbalances due to their situation.

Detention monitors should:

- 1.** Have a clear understanding of what constitutes corruption, based on national legislation and international law (particularly the UNCAC if the country in question has ratified it).¹⁰ For international and regional standards on anti-corruption, see U4’s Basic guide to anti-corruption.¹¹
- 2.** Familiarise themselves with the types of corruption that they are likely to encounter in prisons.¹²
- 3.** Report on corruption and on specific actions, even if prison authorities perceive corruption as a sensitive issue. Monitors should use national legal terminology wherever possible and avoid conflating corruption with other abuses.
- 4.** Take care not to mislabel a behaviour or relationship as corrupt. This can undermine the efficacy of a detention monitoring body. It can also lead to an erosion of human rights and to harmful consequences for people deprived of their liberty, such as greater reliance by staff on strip searches and solitary confinement as security measures, rather than on dynamic security.¹³
- 5.** Document evidence that suggests or proves corruption as far as possible to provide a clear factual basis for supporting recommendations.
- 6.** Consider the wide range of actors, both public and private, who may be engaged in corruption. With regard to prisoners and their families, detention monitors should be mindful that corrupt conduct may have been coerced.

5. See Council of Europe, Criminal Law Convention on Corruption, 1999, Article 14, rm.coe.int/168007f3f5.

6. Rahman, K., Gender mainstreaming in the UNCAC, U4 Anti-Corruption Resource Centre and Transparency International, 2021, knowledgehub.transparency.org/helpdesk/gender-mainstreaming-in-the-uncac.

7. United Nations General Assembly, Resolution adopted by the General Assembly on 2 June 2021, A/RES/S-32/1, 7 June 2021, documents.un.org/doc/undoc/gen/n21/138/82/pdf/n2113882.pdf; Conference of the States Parties to the United Nations Convention against Corruption, Addressing the societal impacts of corruption, CAC/COSP/2023/L.14/Rev.1, 2023, www.unodc.org/documents/treaties/UNCAC/COSP/session10/resolutions/L_documents/2325384E_L.14_Rev.1.pdf.

8. See UNCAC, Article 2.

9. UNODC, Handbook on anti-corruption measures in prisons, 2017, www.unodc.org/documents/justice-and-prison-reform/17-06140_HB_anti-corr_prisons_eBook.pdf.

10. For the list of member states that have signed or ratified the UNCAC, see UNCAC signature and ratification status on the UNODC website, www.unodc.org/unodc/en/corruption/ratification-status.html.

11. See www.u4.no/topics/anti-corruption-basics/basics.

12. On types of corruption, see Barrington, R., Silverman, J. and Hutton, M., Corruption in UK prisons: A critical evaluation of the evidence base, Prison Service Journal, no. 252 (2021): 45–57, www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/PSJ_252%2C_Corruption.pdf; and Goldsmith, A., Halsey, M., and de Vel-Palumbo, M., Literature review: Correctional corruption, Flinders University Centre for Crime Policy & Research, 2018, www.ccc.qld.gov.au/sites/default/files/Docs/Public-Hearings/Flaxton/Exhibits/Day_07/Taskforce-Flaxton-Exhibit-58-Day-7-Flinders-University-Literature-Review-Correctional-Corruption.pdf.

13. Dynamic security is ‘a concept and a working method by which staff prioritise the creation and maintenance of everyday communication and interaction with prisoners based on high professional ethics, and ensure that there is sufficient purposeful and meaning[ful] activity to occupy prisoners, bounded by effective security’. See Council of Europe, Trainers’ manual on dynamic security, 2018, rm.coe.int/final-training-manual-on-dynamic-security-june-2018-koregirana-4-/16808ccae2.

Corruption risks in prisons

Inadequately resourced prisons

Inadequate resourcing and stretched budgets, which are common in prisons around the world, exacerbate the risk of corruption. In low-budget contexts, provision of basic necessities to people deprived of liberty, such as food, medicine, soap, hygiene products, and access to showers, is frequently inadequate, creating an opening for corruption. Poorly paid prison staff may demand bribes in exchange for these necessities.¹⁴ The demand for goods may also be satisfied by contraband, which can lead to creditor-debtor relationships and a 'cycle of stand-over tactics, vendettas and violence'.¹⁵ In many places, family members or outside support networks deliver food, medicine, and hygiene products to people in prison. This situation also raises corruption risks because of the necessary reliance on staff to facilitate the delivery of such goods.

Insufficient prison resources frequently result in unsafe low levels of staffing, with personnel who are often poorly trained and receive low salaries. Inadequate staffing coupled with poor detention conditions, especially overcrowding, poses a further risk of corruption.

Inadequate budgets and overcrowding also lead to inappropriate classification of detainees, or no classification at all. This can result in unsafe placements of vulnerable individuals, bringing a higher risk of corruption. Where informal subcultures exist or organised crime groups are dominant, vulnerable prisoners can be at heightened risk (see page 11). In the specific case of pretrial detention, detainees may be asked to pay bribes to police, prosecutors, and judges to obtain access to legal representation or even bail.¹⁶ Detainees' fears of additional legal charges (e.g., arising from being involved in a violent incident) while in pretrial detention can also give rise to opportunities for corruption.

Detention monitors should:

- 1. Assess whether access to basic necessities for the prison population, including food, water, and sanitation, is fair and equitable.**
- 2. Assess whether staff-to-prisoner ratios meet the security needs of the prison facility, with due regard to any informal prisoner hierarchies that may exist.**
- 3. Assess whether prisoner classification systems adhere to declared criteria, giving special consideration to the classification of vulnerable individuals or groups in the prison population.**
- 4. Make clear and specific proposals to criminal justice policymakers to address prison overcrowding by reducing the number of people in prison.**

Inadequate pay, working conditions, and training of prison staff

Corruption in prisons is often linked to a workforce with inadequate remuneration, training, and supervision. Where budgets are tight, policymakers may see investment in prison staffing as a low priority. Many prison systems fail to test the integrity as well as competency of staff at the time of hiring, followed by continuous monitoring. This raises the risks that corrupt individuals will become entrenched in prison staff, or worse yet, prison management.

Increasing the pay of prison staff is frequently recommended as an anti-corruption measure and a means to improve human rights compliance.¹⁷ However, the risk of corruption needs to be assessed holistically, bearing in mind that adequate remuneration for prison staff in and of itself may not suffice to prevent

^{14.} Such cases have been well documented. See, for example, United Nations Human Rights Council (UNHRC), Report on the relationship between torture and corruption, A/HRC/40/59, 2019, para. 40, www.ohchr.org/en/documents/thematic-reports/ahrc4059-report-relationship-between-torture-and-corruption. See also United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNSP), Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Kyrgyzstan, CAT/OP/KGZ/1, 2014, paras. 121 and 126, digitallibrary.un.org/record/760382?ln=es.

^{15.} Goldsmith, A., Halsey, M., and Groves, A., Tackling correctional corruption, Springer, 2016, link.springer.com/book/10.1057/978-1-137-49007-0.

^{16.} Henderson, K. and Heller, N., Pretrial detention and corruption, Open Society Justice Initiative, 2011, www.justiceinitiative.org/uploads/20d3bbad-5deb-46cd-8548-312371e3eb49/Factsheet_PTD_Corruption_02142013.pdf.

^{17.} Penal Reform International and Thailand Institute of Justice (PRI/TIJ), Global prison trends 2023, pp. 31-32, cdn.penalreform.org/wp-content/uploads/2023/06/GPT-2023.pdf.

corruption. This is in part because higher salaries may still not be competitive with the larger 'earning potential' of engaging in corrupt practices.¹⁸

In many prison systems, training remains focused on security and spends little time on human rights compliance or corruption prevention, topics that require specialised knowledge and willingness to invest in expertise. Good anti-corruption training includes basic modules on the obvious prohibitions – conducting unprofessional relationships with detainees, smuggling drugs, and so on – but also goes beyond that to consider a broad spectrum of corrupt conduct. Examples include tolerating informal hierarchies within the prison population, showing favouritism through informal cell allocation, or failing to properly record incidents in prisoner files to avoid staff accountability for any wrongdoing. Other areas that require training are preventing corruption in procurement processes, supervisors' and managers' responsibilities for implementing anti-corruption measures, and effective use of prison intelligence.¹⁹ In many low-income settings, delivering such specialised training would require support and funding from international actors and/or anti-corruption agencies.

Prison work is physically and psychologically draining and frequently dangerous. In many prison settings where corruption flourishes, staff are disgruntled and morale is low. In Lima, Peru, a study found that staff accepted bribes from visitors to allow mobile phones to be smuggled in. They did so to supplement their low salaries, but this was not the only motivation. These staff had empathy for the people they were supervising as they typically came from similar backgrounds and in some cases had preexisting personal relationships with detainees. Staff also cited the absence of any consequence of corrupt behaviour.²⁰

While the emphasis is rightly on staff, monitors should also consider other potentially corrupt actors, such as contracted service providers or representatives of visiting external organisations. Insufficient vetting, induction, and training of these individuals (for example, on codes of conduct) poses risks that should be taken into account.

Detention monitors should:

- 1. Identify aspects of the recruitment, training, and remuneration of prison staff which may leave them open to conditioning, manipulation, and corruption.**
- 2. Identify motivations of staff to engage in corruption so key drivers can be documented and addressed.**
- 3. Identify any barriers to attracting and retaining adequately qualified prison staff with proven integrity.²¹ Examine recruitment, hiring, compensation, retention, evaluation, promotion, and retirement practices, as well as any initiatives to promote staff well-being (such as appropriate support following violent incidents and rotation of staff). Assess general workplace conditions, as described above.**
- 4. Evaluate curricula for training delivered to prison staff and others, including entry-into-service and continuous in-service training, whether mandatory or optional. Training should give substantial attention to integrity and corruption issues, supervision of prison staff, and ethical rules related to staff duties and functions. It should also cover relevant national legislation, regulations, and policies, and international and regional instruments relating to anti-corruption. Consider any processes to follow up on implementation of learning.**
- 5. Assess whether there are procedures for vetting people who are granted entry to the prison to deliver services, and the quality of such vetting.**
- 6. As appropriate, recommend improved terms and conditions for prison staff as a whole, including security of tenure and remuneration that is based on salary scales, with conditions equivalent to those of the armed services or social services.²²**

High levels of unchecked discretion

PRI has observed that bribes, whether for money or sexual favours, form part of everyday operations in many prisons worldwide. Bribery is made possible by a high level of unchecked discretion among prison staff, which allows them to make decisions without following rules or established criteria on a range of matters affecting prisoners' daily lives, such as movement around the facility, access to food, water, sanitary facilities, and services, and permission to make phone calls or receive visits from family. Without enforceable rules and regulations accompanied by clear, detailed direction, management or staff can demand bribes in relation to almost every aspect of the prison regime.

18. See United Nations Standard Minimum Rules for the Treatment of Prisoners (hereafter, UN Nelson Mandela Rules), A/RES/70/175, Rule 74(2), www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf; and UNODC, Handbook on anti-corruption measures in prisons, 2017, www.un-ilibrary.org/content/books/9789213630907.

19. UNODC, Handbook on anti-corruption measures in prisons, 2017, www.un-ilibrary.org/content/books/9789213630907.

20. Loureiro Revilla, R., Capacidad estatal en el control de actividades criminales: las dinámicas de corrupción en el control de los teléfonos móviles en establecimientos penitenciarios de Lima Metropolitana, master's thesis, Pontificia Universidad Católica del Perú, 2017, tesis.pucp.edu.pe/repositorio/bitstream/handle/20.500.12404/9375/LOUREIRO_REVILLA_ROSA_ESTHER_CAPACIDAD.pdf?sequence=1&isAllowed=y.

21. UN Nelson Mandela Rules, Rule 74(2), www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf. Also see UNODC, Handbook on anti-corruption measures in prisons, 2017, www.un-ilibrary.org/content/books/9789213630907.

22. See UNHRC, Current issues and good practices in prison management: Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/55/52, 2024, para. 26, www.ohchr.org/en/documents/thematic-reports/ahrc5552-current-issues-and-good-practices-prison-management-report.

Staff may seek bribes from detainees or their families in exchange for privileges, such as more time in front of the TV or in the exercise room, or increased visits; for writing favourable reports on prisoners, which may include inaccurate drug test results; and for access to work inside or outside the prison.²³ In Bulgaria, for example, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) heard allegations that staff demanded payments to provide positive assessments of prisoners' behaviour, which affected the prisoners' chances of securing temporary prison leave or early release from prison.²⁴

High levels of contraband in a prison facility may indicate the existence of corruption. It is not uncommon for staff to demand bribes to turn a blind eye to visitors smuggling contraband in. However, while visitors are frequently blamed for contraband, leading to restrictions on visits or use of invasive searches on visitors, detention monitors should carefully consider the possible involvement of staff themselves.²⁵ High unchecked levels of discretion heighten the risks that staff will smuggle contraband into a prison despite the use of scanners or other security measures at the beginning of shifts.²⁶

The organisational structure of a prison system can mitigate or exacerbate risks of corruption. Practitioners report that where there is a hierarchal organisation with many tiers of management, unchecked discretion appears to be more common.²⁷

When it comes to prison file management and recordkeeping, discretion regarding access to records, what is recorded, and how it is recorded can allow corruption. This may involve inadequate recordkeeping or falsification of records, that is, a failure to record information or recording of inaccurate information that is to the benefit of (or detrimental to) a detained person. Incomplete or false records can also benefit the prison authority, individual staff members, or private contractors. For example, records may be falsified so that a contractor appears to be meeting performance indicators when they are not.²⁸

While unchecked abuses of power may be a risk factor for corruption, detention monitors should take care not to categorise all abuses of power as corrupt conduct. Unauthorised or unjustified uses of force or security measures, such as excessive strip searches, typically amount to abuses of power; they may or may not involve corruption as well. Abuses of power can involve corrupt conduct where they are used, for example, to obtain a material bribe or sexual act.²⁹ (For more on defining corruption, see page 5.)

Detention monitors should:

1. Assess the extent of discretion exercised by prison staff and prison management at all levels in the everyday running of the prison facility (or a particular part of it), with reference to the UN Nelson Mandela Rules. Be sure to examine:

- the different levels of discretion afforded various employees in the prison hierarchy, from frontline workers all the way to management;
- policies and practices on recordkeeping and access to records;
- use of force and disciplinary measures;
- decision-making processes and practices on access to various parts of the prison regime, including visits and other 'privileges', rehabilitation programmes, temporary prison leave, parole, and early release.

2. Determine whether discrepancies exist between groups of prisoners in terms of their access to various parts of the prison regime, with a particular focus on vulnerable groups. For example, check data on who is accessing rehabilitation programmes (see page 14).

3. Ensure that recommendations made in relation to bribes and contraband are context-specific and do no harm to detainees. Recommended measures could include, as appropriate:

- banning staff from carrying money in the prison;³⁰
- screening of all persons entering the prison, regardless of their position as staff or management,³¹ while avoiding strip or invasive body searches, in line with international standards;

23. See Hill, G., Detention and corrections, chap. 5 in Messick, R., www.u4.no/publications/corruption-risks-in-the-criminal-justice-chain-and-tools-for-assessment-chapter-5-detention-and-corrections.pdf, and Schütte, S., Corruption risks in the criminal justice chain and guides for assessment, U4 Anti-Corruption Resource Centre, U4 Issue, March 2015, no. 6, www.u4.no/publications/corruption-risks-in-the-criminal-justice-chain-and-tools-for-assessment.pdf.

24. Council of Europe, Report to the Bulgarian Government on the visit to Bulgaria carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 25 September to 6 October 2017, 2018, para. 65, rm.coe.int/16807c4b74.

25. Monitors should consider the fact that people in prison may be reluctant to ask a family member or close friend to risk the consequences of smuggling, which might include having their visiting hours reduced or cut altogether. See Ellison, A., Coates, M., Pike, P., Smith-Yau, W., and Moore, R., The demand for and use of illicit phones in prison, Ministry of Justice Analytical Series, HM Prison and Probation Service, 2018, assets.publishing.service.gov.uk/media/5b4f3fa840f0b6186bb14ed7/The-demand-for-and-use-of-illicit-phones-in-prison_web.pdf.

26. Corruption and Crime Commission, Report on corrupt custodial officers and the risks of contraband entering prisons, Government of Western Australia, 2018, www.ccc.wa.gov.au/sites/default/files/Report_on_corrupt_custodial_officers_and_the_risks_of_contraband_entering_prisons_0.pdf.

27. UNODC, Handbook for prison leaders: A basic training tool and curriculum for prison managers based on international standards and norms, 2010, www.unodc.org/documents/justice-and-prison-reform/UNODC_Handbook_for_Prison_Leaders.pdf.

28. Goldsmith, A., Halsey, M., and Groves, A., Tackling correctional corruption, Springer, 2016, link.springer.com/book/10.1057/978-1-137-49007-0.

29. Bicknell, C., A hydra in detention settings: A context-based inquiry of corruption's many heads, Human Rights Law Review 17, no. 1 (2017): 1-31, academic.oup.com/hrlr/article-abstract/17/1/1/2726327; and Columbia Law School, Center for the Advancement of Public Integrity, Prison corruption: The problem and some potential solutions, 2016, scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=1064&context=public_integrity.

30. UNSPT, Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to the Republic of Paraguay, CAT/OP/PRY/1, 2010, para. 165, www.refworld.org/reference/mission/cat/2010/en/84212.

31. Council of Europe, Report to the Government of North Macedonia on the visit to North Macedonia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 9 December 2020, 2021, para. 20, rm.coe.int/1680a359cb.

- legalising or permitting certain items previously categorised as contraband, where appropriate and with due regard to security considerations, to reduce the motivation for corrupt conduct (for example, mobile phones were permitted in various prison systems, including Argentina's, during the COVID-19 pandemic);³²
- implementing prison intelligence systems involving accurate closed-circuit television recordings of detention areas and other risk-prone areas such as formal and informal entry points, so that measures are based on evidence and data, not assumptions;
- making visitors aware of their rights and responsibilities, including through publicly available information regarding prohibited items, including notices in waiting areas.

Unprofessional and inappropriate relationships between detainees and staff

Effective prison management depends on positive and constructive relationships between staff and the people they supervise. Where such relationships are absent, dynamic security approaches cannot be implemented, leading to a loss of prison intelligence and undermining the effort to maintain a safe and humane environment. What amounts to a positive relationship between prison staff and prisoners or their family members is to some degree context-specific, but such relations tend to involve frequent contact and building of rapport. In many systems, relationships between people deprived of their liberty and staff are more distant, and in these settings it is difficult to use dynamic security approaches effectively.

Prison staff may also form and maintain inappropriate relationships with detainees. Researchers have identified a variety of motivations for such conduct, including financial distress, greed, workplace-based grievances stimulating a desire for revenge, and loneliness.³³ Where staff come from the same communities as the imprisoned population, personal relationships and obligations and a feeling of connection can sometimes lead to inappropriate relationships. These relationships can also arise from unclear policies and procedures that lead to confusion among prison staff as to what constitutes building rapport within an appropriate, professional relationship, as one Australian investigation found.³⁴

Despite the formal distribution of power among staff in accordance with laws, policies, and procedures, there are also circumstances in which people detained in prisons may manipulate and intimidate staff into performing certain acts. This is sometimes linked to the presence and role of organised crime groups, which is discussed further on page 11.

Detention monitors should:

- 1. Assess the relationships and balance of power between staff and prisoners and the extent to which these relations are managed or exist by default. Look for evidence or risk of corruption in these relationships, bearing in mind contextual factors, including whether dynamic security is implemented, the presence and role of organised crime groups or criminal subcultures, and any links prison staff may have with prisoners' families and communities outside of their jobs. The United Nations Office on Drugs and Crime offers a categorisation of power bases in prisons which can assist in mapping the relationships in a given facility.³⁵**
- 2. Seek to identify motivations that lead prison staff to engage in unprofessional and inappropriate relationships, so that root causes can be addressed. Conduct interviews with staff who have engaged in, witnessed, or been advised about inappropriate relationships, and look into any investigations that may have been undertaken.**

Lack of accountability in the procurement of goods and services

Public procurement is an area particularly vulnerable to corruption, potentially involving grand corruption like embezzlement or cronyism, and prisons are no exception. With the global prison population growing, vast amounts of money are involved in contracts entered into by government bodies, prison administrations, and others involved in operating prison systems. Risks of corruption are particularly high where prisons are privatised in their entirety or where the provision of certain services or programmes is contracted to the private sector (e.g., healthcare, work programmes, or cleaning and maintenance).

Examples of procurement corruption in the prison context can include:³⁶

- Unnecessary or overestimated expenditure
- Payment/receipt of political favours or kickbacks

32. Prison Insider, Argentina: 'The phone is everything to me', 4 May 2022, www.prison-insider.com/en/articles/argentina-the-phone-is-everything-to-me.

33. Goldsmith, A., Halsey, M., and Groves, A., Tackling correctional corruption, Springer, 2016, link.springer.com/book/10.1057/978-1-137-49007-0.

34. Oostermeijer, S., Tongun, P., and Johns, D. 2024. Relational security: Balancing care and control in a youth justice detention setting in Australia, Children and Youth Services Review 156, art. 107312, www.sciencedirect.com/science/article/pii/S019074092300508X.

35. Examples of types of power include coercive power (e.g., use of segregation, searches, transfer, disciplinary measures); reward power (distribution of privileges, prized jobs, favourable reports); legitimate power (formal authority, the rule of law); exchange power (the informal reward system; underenforcement and accommodation); expert or professional power (expertise and competence, e.g., in resolving conflicts); respect or personal authority (officers' manner of working with people deprived of their liberty, leadership skills). See UNODC, Handbook on anti-corruption measures in prisons, 2017, www.unodc.org/documents/justice-and-prison-reform/17-06140_HB_anti-corr_prisons_eBook.pdf.

36. Adapted from Goldsmith, A., Halsey, M., and Groves, A., Tackling correctional corruption, Springer, 2016, link.springer.com/book/10.1057/978-1-137-49007-0.

- Favouring of relatives (nepotism) or friends (cronyism) in the award of contracts
- Provision of substandard goods and/or services to cut expenditures
- Misappropriation or misuse of goods and equipment
- Misuse of information (e.g. leaking of confidential bids)
- Use of a single source/supplier without justification
- Restriction of communication with suppliers/contractors to only one individual
- Provision of faulty or lesser-quality equipment that requires early repair or replacement
- High levels of purchasing just under authorisation thresholds
- Duplication or falsification of invoices
- Individuals responsible for ordering and authorising contracts, payments, or goods without adequate oversight
- Excessive variations to orders/emergency works requiring bypass of usual procedures
- Creation of false suppliers

As the primary motivation of private companies is profit, an obvious risk is that of overcharging for services provided. Beyond that, there is an inherent risk of decision-making that puts people detained at risk of harm, for example, through the provision of ‘dangerously substandard medical care’ by private providers seeking to cut corners.³⁷ Privatisation also offers perverse incentives to undermine rehabilitation efforts or even to actively increase prison populations. An example is the so-called ‘kids for cash’ scandal, in which US judges sentenced children to detention in exchange for kickbacks.³⁸

In the Australian state of Victoria, an Anti-corruption Commission found that ‘issues related to transparency are of particular concern in privately managed prisons’. This is in part because of ‘commercial-in-confidence clauses in contracts between the state and private service providers which may affect the public’s ability to identify contractual violations and any remedial actions taken’.³⁹

Detention monitors should:

- 1. Identify what oversight and accountability mechanisms apply to contracts for building and maintaining prisons and providing prison services, and to what degree they function effectively.**
- 2. Assess any evidence or risks of procurement-related corruption that may constitute human rights violations, including torture or ill-treatment.**
- 3. In the context of grand, endemic, or complex corruption, consider recommending an independent audit of corruption risks across all prisons,⁴⁰ or call for ‘making public each prison’s budget, budgetary decisions and the names of the responsible officials’ to achieve greater transparency.⁴¹**
- 4. Raise awareness of procurement-related corruption risks among anti-corruption bodies/commissions in the country and coordinate with them to mobilise their expertise.**

Organised crime groups, criminal subcultures, and shared or self-governance of prisons

Organised crime groups and informal criminal subcultures affect most prison systems globally, and their prevalence has been increasing in recent decades, posing one of the biggest challenges to prison administrations. Criminal groups and subcultures create their own rules and codes of conduct among groups of prisoners.⁴² In some cases these groups may effectively control the prison (self-governance) or share control with prison authorities (shared governance), leading staff to abdicate the day-to-day running of prisons or condone the acts of powerful prisoners.⁴³

While shared or self-governance can sometimes be tolerated or even encouraged by authorities, it heightens the risks of corruption. This is particularly true in overcrowded prisons, as frontline or management staff relinquish some control in attempts to maintain order and ‘smooth operations’ with large numbers of people.⁴⁴ A system of corruption may become so entrenched that it is considered normal by the prison authority, and so ‘hermetic and complex’ that it seems ‘to offer no choice as regards entering it and no way of escape from it’.⁴⁵

37. Ibid.

38. Ibid.

39. Independent Broad-based Anti-corruption Commission, Special report on corrections, 2021, www.ibac.vic.gov.au/publications-and-resources/article/special-report-on-corrections.

40. UNSPT, Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to the Republic of Paraguay, CAT/OP/PRY/1, 2010, para. 64, www.refworld.org/reference/mission/cat/2010/en/84212.

41. Ibid.

42. On criminal subcultures in prisons as a key challenge to most prison systems globally, see PRI/TIJ, Global prison trends 2023, cdn.penalreform.org/wp-content/uploads/2023/06/GPT-2023.pdf.

43. UNSPT, Seventh annual report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2014, para. 96, digitalibrary.un.org/record/772733?ln=es&v=pdf.

44. Council of Europe, Report to the Moldovan Government on the ad hoc visit to the Republic of Moldova carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 5 to 13 December 2022, 2023, rm.coe.int/1680ac59d8.

45. UNSPT, Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to the Republic of Paraguay, CAT/OP/PRY/1, 2010, para. 163, www.refworld.org/reference/mission/cat/2010/en/84212.

This type of shared governance is distinct from the positive type described and permitted in the UN Nelson Mandela Rules, under which 'specified social, educational or sports activities or responsibilities are entrusted, under supervision, to prisoners who are formed into groups for the purposes of treatment'.⁴⁶ Such limited self-management can have a positive impact in 'fostering a sense of communal and individual responsibility'.⁴⁷ However, it requires proper supervision, and there should be no role for peer-to-peer discipline.⁴⁸ When not correctly structured or supervised, and/or when discipline is delegated, shared governance carries a high risk of corruption and of human rights violations.

International monitors have documented numerous cases in which self-governance has led to smuggling of contraband such as firearms and bladed weapons; inter-prisoner violence (including sexual violence) and slave labour; and the ill-treatment, torture, and death of people deprived of their liberty, with impunity.⁴⁹ There are risks that organised crime groups may work with members of terrorist and violent extremist groups in prisons, with conditioning, manipulation, coercion, and corruption being used for mutual advantage.

In the everyday operations of a prison under shared or self-governance, informal prison leaders can determine job assignments for their peers. They may manage recordkeeping, which impacts hearing dates, and in some cases have even signed certificates of remission of sentences.⁵⁰ They often determine material conditions, which may involve renting, selling, and buying prison cells for amounts that vary according to their size and level of comfort. Prison leaders also commonly 'charge' for access to telephones, health clinics, food, or privacy for family visits. They can control when people are locked into and unlocked from their cells or dormitories.⁵¹ In Armenia, the CPT stressed the need to prevent prisoners from gaining influence within the informal prison hierarchy based on their wealth, which exacerbates inter-prisoner violence and increases the risk of corruption.⁵²

Detention monitors should:

1. Map out the prevalence and role of organised crime groups and criminal subcultures, including gangs and violent extremists or terrorists, in any form of shared or self-management. Special attention should be paid to the role of prisoners in discipline or punishment of peers.
2. Assess the level of oversight by the prison administration, alongside information available (e.g. through interviews and records), with regards to:
 - how crime groups and their members are identified, and any strategies to manage them;
 - how prisoners gain access to food, water, healthcare, rehabilitation and work programmes, visits, etc.;
 - the recordkeeping system;
 - movement and allocation of prisoners.
3. In cases of endemic and/or complex corruption in prison systems, where organised crime groups and criminal subcultures have achieved some form of control:
 - document as far as possible the extent to which they exercise control, forms of corruption, and impacts on the human rights of people in prison and their families;
 - assess priority issues and provide recommendations to prison authorities on ways to mitigate corruption harms, including with regard to professionalising the prison service;
 - recommend a multi-stakeholder approach that includes the engagement of anti-corruption agencies and experts on organised crime.

Lack of enforceable codes of conduct, lack of accountability, and poor institutional culture

Corruption thrives in prison systems or individual facilities where there is a lack of integrity and accountability among management or staff. Prison rules and regulations, including a code of conduct for staff, may be absent, outdated, unenforceable, or simply not enforced. The absence of enforceable rules sends a signal to staff that corruption is (or may be) tolerated.⁵³

46. UN Nelson Mandela Rules, Rule 40(2), www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf.

47. See UNSPT, Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Benin, CAT/OP/BEN/1, 2011, para. 169, digitallibrary.un.org/record/708500?ln=en&v=pdf. See also UNSPT, Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Mali, CAT/OP/MLI/1, 2011, para. 60, digitallibrary.un.org/record/735887?ln=en.

48. UN Nelson Mandela Rules, Rule 40, www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf.

49. See, for example, the visits of the UN Subcommittee on Prevention of Torture to Bolivia and Panama in 2017 and to Ecuador in 2022. UNSPT, Visit to the Plurinational State of Bolivia undertaken from 2 to 11 May 2017: Observations and recommendations addressed to the State party, CAT/OP/BOL/3, 2018, documents.un.org/doc/undoc/gen/g18/233/53/pdf/g1823353.pdf?token=R3TxxkUOcrNteQtRd6K&fe=true; and Visit to Panama undertaken from 20 to 26 August 2017: Observations and recommendations addressed to the State party, CAT/OP/PAN/1, 2018, para. 71, documents.un.org/doc/undoc/gen/g18/237/85/pdf/g1823785.pdf?token=JUPWjauSjBT1MmobvZ&fe=true; United Nations Office of the High Commissioner for Human Rights, Ecuador: UN torture prevention body remains seriously concerned by prison crisis after second visit, 2022, www.ohchr.org/en/press-releases/2022/10/ecuador-un-torture-prevention-body-remains-seriously-concerned-prison-crisis.

50. See PRI/TIJ, Global prison trends 2023, cdn.penalreform.org/wp-content/uploads/2023/06/GPT-2023.pdf; and UNSPT, Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to the Republic of Paraguay, CAT/OP/PRY/1, 2010, para. 162, www.refworld.org/reference/mission/cat/2010/en/84212.

51. See, for example, examples of the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment after its visits to North Macedonia (2019–2020, rm.coe.int/1680a359cb), Bulgaria (2017, <http://rm.coe.int/16807c4b74>), Ukraine (2017, <http://rm.coe.int/16808d2c2a>), Azerbaijan (2017, <http://rm.coe.int/16808c5e46>), Lithuania (2018, rm.coe.int/168095212f), and Armenia (2019, rm.coe.int/1680a29ba1).

52. Council of Europe, Report to the Armenian Government on the visit to Armenia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2 to 12 December 2019, 2021, rm.coe.int/1680a29ba1.

53. PRI, Good governance for prisons, 2022, cdn.penalreform.org/wp-content/uploads/2022/03/Good-governance-guide.pdf.

Risks of corruption are heightened where ‘codes of silence’ exist in prisons. A result of voluntary or enforced solidarity among staff and/or prisoners, codes of silence prevent individuals from reporting corrupt behaviour on the part of their peers. For staff, this may involve a sense of collegiality based on their perceptions of the job being dangerous, coupled with feelings of being underappreciated or undercompensated; or there may be other shared rationalisations for corrupt behaviour.⁵⁴

As the prison industry grows globally, the amount of funding involved in building and running prisons is also increasing.⁵⁵ Tenders for the construction of new prisons, the provision of goods and services, or the management of prison programmes may be attractive to criminal enterprises or high-level public officials seeking personal gain.⁵⁶ Without proper regulation of conflicts of interests, such as through registration of potential conflicts and asset declaration systems, corrupt procurement in high-value tenders can benefit management or senior public officials involved in such processes.

As discussed above, self-governance by people in prison can have a positive impact when properly supervised by prison authorities.⁵⁷ However, it can also be a manifestation of poor governance and weak institutional culture. In a visit to Benin, the UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) found prison management unconcerned by its loss of control and authority; the prison director described self-governance ‘as a good system in which prison management did not get involved’.⁵⁸ Yet the SPT found that the system negatively affected external visits, participation in work programmes, and access to food, water and accommodation.⁵⁹ Self-governance carries complex risks where organised criminal groups are involved (see page 11).⁶⁰

Detention monitors should:

1. Assess the quality of governance of prison systems or individual facilities, considering the existence and adequacy of laws, regulations, policies, procedures, and codes of conduct that are relevant to corruption. These governance mechanisms should collectively:

- provide clear, practical guidance on how staff are expected to conduct themselves with respect to contact with prisoners, contact with prisoners’ families and support networks, acceptance of gifts, confidentiality, discipline, and use of force, among other areas;
- define proper and improper use of resources;
- detail any mandatory reporting requirements for corruption, procedures for reporting corruption, consequences of corrupt conduct, disciplinary processes, and channels for appealing decisions that are adverse to staff;
- provide for the possibility of criminal, civil, and administrative liability for corruption;
- provide for registration of potential conflicts of interest and asset declaration systems so that external activities, employment, investments, assets, and substantial gifts or benefits are registered, with special restrictions placed on staff or officials involved in procurement and tenders (e.g. requiring management to relinquish private interests that conflict with their public duties);
- provide a whistleblowing process (see page 16).

2. Assess the enforceability, in policy and in practice, of the rules and regulations applied to prison staff and management. As part of this assessment, monitors should:

- determine, by checking human resources files and other relevant records, whether any staff disciplinary investigations, processes, and/or prosecutions have been carried out by internal or external disciplinary bodies;⁶¹
- identify any codes of silence that may exist, as evidenced by a lack of transparency and apparent withholding of information.

3. Recommend that any codes of conduct and other relevant rules and regulations be made publicly available, as relevant.

4. Review the training on and practical implementation of laws, regulations, policies, procedures, and codes of conduct – for example, by checking records where conflicts of interests are registered, examining training materials, and asking staff about the content of the code of conduct.

54. Hill, G., Detention and corrections, chap. 5 in Messick, R. and Schütte, S., eds., www.u4.no/publications/corruption-risks-in-the-criminal-justice-chain-and-tools-for-assessment-chapter-5-detention-and-corrections.pdf; Corruption risks in the criminal justice chain and tools for assessment, U4 Issue, March 2015, no. 6, U4 Anti-Corruption Resource Centre, www.u4.no/publications/corruption-risks-in-the-criminal-justice-chain-and-tools-for-assessment.pdf.

55. PRI/TIJ, Global prison trends 2022, pp. 42–43, cdn.penalreform.org/wp-content/uploads/2022/05/GPT2022.pdf.

56. UNODC, Handbook on anti-corruption measures in prisons, 2017, www.un-ilibrary.org/content/books/9789213630907.

57. UN Nelson Mandela Rules, Rule 40, www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf.

58. UNSPT, Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Benin, CAT/OP/BEN/1, 2011, digitallibrary.un.org/record/708500?ln=en&v=pdf.

59. Ibid, para. 170.

60. UNSPT, Visit to Panama undertaken from 20 to 26 August 2017: Observations and recommendations addressed to the State party, CAT/OP/PAN/1, 2018, para. 71, documents.un.org/doc/undoc/gen/g18/237/85/pdf/g1823785.pdf?token=JUPWJauSjBT1MmobVZ&fe=true.

61. The 2006 report of the Jali Commission of South Africa recommends that any disciplinary matters related to prison staff should be entrusted to an external and independent body or to the Public Service Commission, www.gov.za/sites/default/files/gcis_document/201409/jalicommmfull0.pdf.

Discrimination exacerbates risks and harms of corruption

“

Corruption violates the rights of all those affected by it, but it has a disproportionate impact on people belonging to groups exposed to particular risks, such as minorities, [I]ndigenous peoples, migrant workers, people with disabilities, those with HIV/AIDS, refugees, prisoners, women, children and those living in poverty.⁶²

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Prison populations are disproportionately made up of people who were already vulnerable prior to their imprisonment. They include racialised people, Indigenous and Roma; people who use drugs; people living in poverty; members of LGBTIQ+ communities; and women who have experienced violence, among others.⁶³ Their marginalisation is then compounded by their imprisonment. Studies point to a disproportionate impact of corruption on marginalised people, and this is as true in prisons as in society at large.⁶⁴ Moreover, the costs of corruption are cumulative for individuals who are members of multiple vulnerable groups.⁶⁵

Prisoners with low social status, and/or who occupy a low rank in an informal prison hierarchy, may be singled out by prison staff for exploitation or coercion. They are, on average, less likely than those with a higher status

to complain, and less likely to be believed when they do complain; if they are believed, there is less likelihood that substantive remedial action will be taken. This can be exacerbated where a lack of economic means results in a prisoner's isolation from their family and support networks, who are unable to afford to travel to visit. The absence of support can make both resistance to and reporting of corrupt practices even more challenging.

A person's status in the criminal justice system also affects the likelihood that they will fall victim to or engage in corruption. Abuse of poor and marginalised individuals is particularly severe in the pre-trial phase, where corrupt actors operate with more discretion and less scrutiny. Once a person is arrested, their freedom often depends on their ability to pay bribes. This creates 'a powerful incentive for suspects or defendants to resort to corruption and for those holding power over their fates to abuse this situation'.⁶⁶ Since many arrested individuals cannot afford to pay bribes, pre-trial detention facilities 'are populated almost entirely by poor people'.⁶⁷

Women in prison face unique discrimination, in part because they make up a small fraction of the overall prison population. A disproportionate number of women in prison have experienced gender-based violence in their lives and have complex mental health needs.⁶⁸ They are at high risk of being targeted for sexual corruption. In Mozambique, for instance, a 2021 report documented how women in one prison had been forced into prostitution, with promises by prison staff that they would receive better treatment if they complied. The imprisoned women were afraid to report the abuse,

62. UNSPT, Seventh annual report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2014, para. 80, digitallibrary.un.org/record/772733?ln=es&v=pdf.

63. PRI/TIJ, Global prison trends 2023, cdn.penalreform.org/wp-content/uploads/2023/06/GPT-2023.pdf.

64. UNHRC, Torture and other cruel, inhuman or degrading treatment or punishment Report of the Special Rapporteur, A/HRC/40/59, 2019, para. 57, www.ohchr.org/en/documents/thematic-reports/ahrc4059-report-relationship-between-torture-and-corruption.

65. Bullock, J. and Jenkins, M., Corruption and marginalisation, Transparency International, 2020, knowledgehub.transparency.org/assets/uploads/helpdesk/Corruption-and-marginalisation.pdf.

66. UNODC, Handbook on anti-corruption measures in prisons, 2017, www.unodc.org/documents/justice-and-prison-reform/17-06140_HB_anti-corr_prisons_eBook.pdf. See also UNSPT, Seventh annual report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2014, para. 80, digitallibrary.un.org/record/772733?ln=es&v=pdf.

67. Henderson, K. and Heller, N., Pretrial detention and corruption, Open Society Justice Initiative, 2011, www.justiceinitiative.org/uploads/20d3bbad-5deb-46cd-8548-312371e3eb49/Factsheet_PTD_Corruption_02142013.pdf.

68. See PRI/TIJ, Guidance document on the Bangkok Rules Implementing the United Nations Rules on the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, 2021, cdn.penalreform.org/wp-content/uploads/2021/12/BR_Guidance_Doc_English_Second_Edition.pdf. See also PRI and Prison Reform Trust, Women in prison: Mental health and well-being: A guide for prison staff, 2020, cdn.penalreform.org/wp-content/uploads/2020/02/PRI-Women-in-prison-and-mental-well-being.pdf.

which continued over a ten-year period, fearing they would be 'shamed, further assaulted and traumatised for blowing the whistle'.⁶⁹

Prisons with shared- or self-governance structures exacerbate the harms of prison inflicted on people in vulnerable contexts, including those who do not have the financial means to pay for necessities like food or medicine. In Bolivia, the SPT explained, 'Economic inequalities among prisoners exacerbate the vulnerability of the weakest, who are forced to live in conditions that are tantamount to ill-treatment. Some inequalities are extreme, such as, for example, charges for the right to sleep on a mattress in Chonchocoro Prison or the operation of a sauna in San Pedro Prison.'⁷⁰ In its visit to North Macedonia, the CPT found that 'everything was available for purchase and that each item bore a specific price tag within the prison'. This included access to the doctor, possession of a mobile phone, and even refusal to accommodate new prisoners in a specific cell.⁷¹

Detention monitors should:

- 1.** Adopt an intersectional approach in seeking to understand how identities overlap and create compounding experiences of discrimination. Gain an understanding of groups commonly discriminated against in the communities where prisons are located and from which prison populations are drawn.
- 2.** Study the profile of people who are most at risk of discrimination in the prison setting, using an intersectional lens that takes into account sex, gender identity, economic status, offence charged with or convicted of, etc.). Consider people deprived of their liberty, their families, and prison staff.
- 3.** Consider the susceptibility of vulnerable groups to being victimised by corruption, or being coerced to engage in corrupt conduct, in the prison. This includes understanding how members of vulnerable groups access different parts of the prison regime such as food, showers, rehabilitation and work programmes, visits, etc.
- 4.** Analyse data, if disaggregated, to determine whether certain groups are disproportionately making complaints related to corruption. If such data is not available, recommend to authorities that data be disaggregated and reported.

^{69.} Transparency International, Corruption behind bars, 2 July 2021, www.transparency.org/en/blog/mozambique-prison-corruption-behind-bars.

^{70.} UNSPT, Visit to the Plurinational State of Bolivia undertaken from 2 to 11 May 2017: Observations and recommendations addressed to the State party, CAT/OP/BOL/3, 2018, para. 36, undocs.org/Home/Mobile?FinalSymbol=CAT%2FOP%2FBOL%2F3&Language=F&DeviceType=Desktop&LangRequested=False.

^{71.} Council of Europe, Report to the authorities of North Macedonia on the visit to North Macedonia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2 to 10 December 2019, 2021, p. 41, rm.coe.int/1680a26b8f.

How to respond to findings of corruption

Recommendations and follow-up steps

01

Engage in constructive dialogue with prison authorities and governments on recommendations

Detention monitors should properly identify the officials who are directly responsible for mitigating any identified risks of corruption or responding to corrupt practices identified, and address recommendations to them. However, monitors should recognise that

the state is always ultimately responsible for ensuring humane conditions and treatment in prisons, for taking measures to prevent corruption, and for investigating, prosecuting, and providing redress for victims in alleged or proven cases of corruption.⁷²

Recognising that corruption, particularly in the prison context, remains a contentious issue, monitoring bodies should ensure they have the support of other relevant bodies, such as anti-corruption commissions. Monitors' concerns, recommendations, and findings should be communicated carefully and strategically to ensure that a constructive dialogue is possible.

02

Promote adequate whistleblowing systems in prisons

Whistleblowing is 'the disclosure of information related to corrupt, illegal, fraudulent or hazardous activities being committed in or by public or private sector organisations – which are of concern to or threaten the public interest – to individuals or entities believed to be able to effect action'.⁷³ A whistleblower may make the report voluntarily or in accordance with a duty to report.⁷⁴

Detention monitors should assess whether an effective, accessible, and confidential internal whistleblowing system exists in a prison service.⁷⁵ They may also

consider protected external reporting channels, such as reporting to a regulator, law enforcement agency, or independent anti-corruption body, or exposing the matter through the media or another public platform. Where such whistleblowing pathways are not in place, relevant recommendations should be made.

Detention monitors should assess whether there are normative, institutional and judicial frameworks to protect whistleblowers, witnesses, experts, and victims, including before, during and after any trials.⁷⁶ Protection should extend to individuals' families, where necessary, as well as to civil society organisations so they are not prevented from entering the prison and/or delivering goods and services. Where protective frameworks are not in place, relevant recommendations should be made.

72. UNHRC, Final report of the Human Rights Council Advisory Committee on the issue of the negative impact of corruption on the enjoyment of human rights, A/HRC/28/73, 2015, paras. 8 and 9, www.ohchr.org/en/documents/reports/final-report-human-rights-council-advisory-committee-issue-negative-impact.

73. Transparency International, International principles for whistleblower legislation best practices for laws to protect whistleblowers and support whistleblowing in the public interest, 2013, images.transparencycdn.org/images/2013_WhistleblowerPrinciples_EN.pdf.

74. France, G., Obligations to report corruption: Examples of national statutory and non-statutory provisions, U4 Anti-Corruption Resource Centre and Transparency International, U4 Helpdesk Answer, 19 December 2022, knowledgehub.transparency.org/assets/uploads/helpdesk/Obligations-to-report-corruption_2022_PR_final.pdf.

75. Terracol, M., Internal whistleblowing systems: Best practice principles for public and private organisations, Transparency International Policy Brief, 2022, files.transparencycdn.org/images/2022_PolicyBrief_InternalWhistleblowingSystems_English-1.pdf.

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03

Recommend and contribute to independent investigations

Detention monitors should make recommendations regarding, and contribute to, independent investigations into corruption in prisons. Depending on the jurisdiction, these investigations may be undertaken by law enforcement agencies, prosecutorial authorities (specialised or ordinary), ombudspersons, or specialised anti-corruption bodies.⁷⁷ For instance, the CPT recommended that the Special Prosecutor's Office on Anti-Corruption and Organised Crime, a Macedonian body, undertake a full investigation into corrupt activities involving prison staff at the Idrizovo Prison in North Macedonia in 2019, and in 2024 the CPT noted that the special prosecutor's office had received files from the director of the Directorate for the Execution of Sanctions.⁷⁸

Monitors may also make recommendations for establishing appropriate auditing procedures⁷⁹ or industry-wide regulatory bodies with mandates that include anti-corruption work relevant to prisons.⁸⁰ Such bodies should be effective, trusted, and independent, with appropriate training and resources, including measures to facilitate the gathering of evidence and confiscation of corruption proceeds.

Agreements, such as memorandums of understanding, between prison administrations and investigatory bodies and the like can enable processes and policies for making more efficient and effective referrals to such bodies. Noting the link between corruption and torture or ill-treatment, the UN Special Rapporteur on Torture has recommended that States should 'proactively integrate their anti-torture and anti-corruption policies and practices, including through mutual mainstreaming'.⁸¹

When it comes to deaths in prison, international law requires investigations,⁸² and they should include identification of any link to corruption. Inquests or investigations into the deaths of prison staff should also be conducted where there is evidence that corrupt behaviour within the prison may have contributed to the death.⁸³

Investigation and prosecution of corrupt practices is a matter beyond the purview of detention monitors.⁸⁴ They do not typically have an investigative mandate with the necessary powers and privileges, nor do they have forensic accounting skills. Therefore, monitors should identify the appropriate bodies to which they can make referrals. These could include police, prosecutors, anti-corruption agencies, audit agencies, and/or investigatory bodies.

77. See, for example, UNCAC Article 36; Council of Europe, Criminal Law Convention on Corruption, Articles 20 and 23, rm.coe.int/168007f3f5; Council of Europe, Civil Law Convention on Corruption, Article 11, rm.coe.int/168007f3f6; Council of Europe, Resolution (97) 24: On the twenty guiding principles for the fight against corruption, 1997, rm.coe.int/16806ccc17c; and Inter-American Convention Against Corruption, 1996, Article III(9), www.oas.org/en/sla/dil/docs/inter_american_treaties_B-58_against_Corruption.pdf.
78. Council of Europe, Report to the authorities of North Macedonia on the visit to North Macedonia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2 to 10 December 2019, 2021, para. 52, rm.coe.int/1680a26b8f; Council of Europe, Report to the authorities of North Macedonia on the visit to North Macedonia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2 to 12 October 2023, 2024, para. 60, rm.coe.int/1680af95e2.
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83. Coroners Court of Victoria, Inquest into the death of William Maxwell, State of Victoria, Australia, 2018, para. 173, www.coronerscourt.vic.gov.au/sites/default/files/2021-05/WilliamMaxwell_143018.pdf.
84. For examples of successful prosecution of corruption in prisons, see Busby, M. and Allison, E., Dozens of prison staff sacked over prohibited items, MoJ figures show, The Guardian, 24 December 2020, www.theguardian.com/society/2020/dec/24/dozens-of-prison-staff-sacked-over-prohibited-items-moj-figures-show. There were 88 convictions of prison staff in England and Wales from 2015 to 2022 for bringing in prohibited items such as drugs, tobacco, and mobile phones.

04

Contribute to improved policies and processes

Detention monitoring bodies should provide specific recommendations for the development or improvement of anti-corruption strategies, policies, and processes for prison systems and individual prison facilities. They may also recommend corruption risk assessments, as well as

the methodology for analysing risk that should be used.⁸⁵ In order to identify high risks, assessments should consider both the likelihood of the threat materialising and the impact it could have. Risk mitigation strategies should consider intelligence, prevention, and enforcement.

Drawing on recommendations in this publication, guides developed by monitoring bodies should specify what sort of data information should be collected and how. It is important to provide disaggregated data on specific vulnerable groups.

05

Contribute to law reform to adequately criminalise corruption

Monitoring bodies should consider making recommendations for reforms to legislation and practice on the criminalisation of corruption, and even participating in the legislative process. Some detention monitoring bodies, such as National Preventive Mechanisms, have a mandate that includes submitting proposals on existing and draft legislation.

06

Promote transparency

Recommendations around provision of information can promote better transparency. For instance, monitors can recommend the implementation or improvement of mechanisms by which prison authorities ensure that detained people, as well as their family members and other support networks, fully understand their rights and feel empowered to exercise them. This includes the ability to make complaints via a robust reporting mechanism and to have adequate access to legal counsel.⁸⁶ Similarly, rules and regulations that specify which items are prohibited in prisons, and the processes

for delivering accepted items, should be communicated in a public, transparent manner. This benefits family members and others providing support to detainees and removes discretionary decision-making by staff at the time of a visit or delivery.

Monitors can recommend ways for prison authorities to ensure that people affected by corruption in prison have channels for making complaints to external bodies, free from 'censorship as to substance'.⁸⁷ These bodies could include National Human Rights Institutions or judicial authorities able to facilitate criminal investigations, as appropriate.⁸⁸ Monitors can also recommend that prison authorities 'promote access [to prisons] by civil society and representatives of the media as a means of ensuring external monitoring'.⁸⁹

85. See, for example, the 2006 report of the Jali Commission of South Africa, describing an anti-corruption policy for the prison system, awareness-raising initiatives, and a whistleblowing policy, www.gov.za/sites/default/files/gcis_document/201409/jalicommmfull0.pdf. Also see UNODC, Handbook on anti-corruption measures in prisons, 2017, pp. 29–30, on a corruption prevention service and action plan within the prison service in Argentina, www.unodc.org/documents/justice-and-prison-reform/17-06140_HB_anti-corr_prisons_eBook.pdf.

86. UN Nelson Mandela Rules, Rules 54 and 55, www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf. See also UNODC, Handbook on anti-corruption measures in prisons, 2017, www.unodc.org/documents/justice-and-prison-reform/17-06140_HB_anti-corr_prisons_eBook.pdf.

87. UN Nelson Mandela Rules, Rule 56(3), www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf.

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89. UNSPT, Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to the Republic of Paraguay, CAT/OP/PRY/1, 2010, para. 165, www.refworld.org/reference/mission/cat/2010/en/84212.

Practical considerations for monitoring corruption in prisons

01

Map likely corruption risks that are context-specific, drawing on all available information before the monitoring visit.

02

Make strategic decisions on which prisons to visit, bearing in mind the broader climate, including any anti-corruption efforts underway. Take into account alleged or evidenced 'hotspots' for corruption (for instance, high levels of complaints, reports of escapes, or reports that smuggling of contraband is rife in a particular facility).

03

Map other key stakeholders, including civil society organisations and anti-corruption investigating bodies, to gain an understanding of any relevant work being done in relation to prisons.

04

Adapt the monitoring methodology to monitor corruption, including by:⁹⁰

- developing a context-specific set of indicators for corruption risks in monitors' expectations or standards, using this guide as a reference; and
- developing a tailored process for escalating urgent matters in cases where the risk of corruption is high or corrupt practices are having a significant negative impact on prisoners' human rights.

05

Identify and obtain sources of information relevant to corruption (in addition to the usual key sources of evidence used by detention monitors), such as:

- Legislation, regulations, and internal policies and procedures (such as codes of conduct, policies on security, whistleblowing protections, standard operating procedures on scans/checks of staff entering the prison)
- Information relating to human resources management or records (e.g., training requirements and opportunities, salaries, promotions, vetting, integrity tests, conflicts of interest, disciplinary matters, investigations into corrupt conduct)
- Registers (including for parcels entering the prison)
- Complaints and investigations handled internally, particularly in relation to corrupt conduct
- Information on prison intelligence systems
- Training and education schedules and materials focusing on integrity and corruption issues
- Procurement policies, processes, and tenders, as well as purchase records
- Contracts for construction and provision of goods and services and records of contractual breaches and consequences or outcomes

06

Ensure that the monitoring team has the necessary capacity to assess corruption, including by using this guide. If possible, consider including an anti-corruption specialist or doing joint visits with anti-corruption bodies.

⁹⁰ See, for example, United Nations Office of the High Commissioner for Human Rights, Preventing torture: The role of National Preventive Mechanisms: A practical guide, 2018, www.ohchr.org/sites/default/files/Documents/Publications/NPM_Guide_EN.pdf.

07

Uphold the ‘do no harm’ approach in monitoring corruption. Ensure the safety of prisoners, their families, and members of the monitoring team, with particular attention to contexts where organised crime groups may be involved in corruption. Monitors should ‘balance the need to gather information and the potential risk of harm to those who may be in a position to provide such information’,⁹¹ notably the risk of reprisals.

Measures to prevent corrupt practices surrounding contraband coming into a prison may need to be assessed against various considerations. For instance, one study in Peru found that most smuggled phones were used to keep in touch with relatives, rather than to commit a crime or communicate with organised crime, and therefore were a lifeline to people detained in harsh conditions.⁹²

08

Give careful consideration to decisions on whether and how to engage leaders or key detainees within an informal prison hierarchy, especially in the context of prisons with shared or self-governance and those where criminal subcultures or organised criminal groups are operating. While detention monitors may not wish to legitimise informal prison hierarchies by engaging with those at the top, it may be necessary to speak with such individuals to carry out the visit effectively. In some cases the official prison administration and/or other prisoners may even recommend that detention monitors engage with these leaders.

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About Penal Reform International

Penal Reform International (PRI) is a non-governmental organisation working globally to promote criminal justice systems that uphold human rights for all and do no harm. We work to make criminal justice systems non-discriminatory and protect the rights of disadvantaged people. We run practical human rights programmes and support reforms that make criminal justice fair and effective.

Registered in The Netherlands (registration no 40025979), PRI operates globally with offices in multiple locations.

www.penalreform.org

About U4

The U4 Anti-Corruption Resource Centre (U4) works to understand and counter corruption worldwide. U4 is part of the Chr. Michelsen Institute (CMI), an independent development research institute in Norway.

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