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The United Nations Convention against Corruption

Handbook on Anti-Corruption Measures in Prisons

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Handbook on Anti-Corruption Measures in Prisons



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Introduction

“Corruption is an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life and allows organized crime, terrorism and other threats to human security to flourish.”¹

The risk of corruption in the specific environment of prison settings

Imprisonment creates a situation in which prisoners depend upon prison authorities for the fulfilment of almost all of their day-to-day needs, including access to basic necessities, such as food and drinking water. By depriving individuals of their liberty, the State automatically assumes a heightened duty to ensure that custody is enforced in a secure, safe and humane manner. This must include due diligence to prevent abuse and corruption that may be committed by prison staff, public officials and other detainees, and it requires a considerably higher level of due diligence than in a non-custodial environment.²

Prisons are particularly vulnerable to acts of corruption in comparison to other key justice institutions. This is due in part to the closed nature of imprisonment, the associated risk of insufficient public scrutiny and the fact that prisons, by definition, hold individuals accused of or sentenced for having committed criminal offences, including serious crimes. In addition—and despite their complex, difficult and sometimes dangerous work—prison staff tend to be held in lower regard than other public officials working in the criminal justice system. This often implies lower salaries, less training and fewer career opportunities, as well as difficulties in recruiting qualified staff which, in turn, further increases the risk of corruption taking root in prisons.

Corruption in prisons poses a severe security risk to prisoners, prison staff and prison management alike. Unsurprisingly, therefore, corruption is often identified as one of the main obstacles to the practical application of international standards and norms related

¹ Kofi A. Annan, Foreword to the United Nations Convention against Corruption, General Assembly resolution 58/4 of 31 October 2003 (2004).

² Interim Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, A/61/311, 5 September 2006, paras. 51-52.

to the management of prisons and the treatment of prisoners.³ Relevant examples include embezzlement of funds needed for necessary security measures and infrastructure; misappropriation of goods; hiring practices that do not consider the qualifications, merit and integrity of candidates; trafficking of mobile phones, drugs or weapons into and inside prison walls in exchange for bribes; and situations in which safety and the provision basic services are made subject to prisoners' ability to pay bribes. This risk is further increased if members of organized crime groups or high-risk prisoners manage to come into a position of power and control with respect to prison officials.

The international legal framework

The United Nations Convention against Corruption (hereinafter "the Convention against Corruption") is the only legally binding anti-corruption instrument of global scope. Since its adoption on 31 October 2003, the Convention against Corruption has been ratified by 182 Parties⁴ and therefore is close to reaching universal application. The mandatory character of many of its provisions makes the Convention against Corruption a unique tool for developing a comprehensive response to a global problem. Its key provisions on the prevention of corruption address the public sector and therefore include the prison system and prison management.

The implementation of the Convention against Corruption is governed by the Conference of the States Parties to the United Nations Convention against Corruption. At its fifth and sixth sessions,⁵ the Conference in its resolutions 5/4 and 6/6 called upon States parties to devote special attention to strengthening integrity across the entire criminal justice system, including the police, prosecution, defence counsel, judiciary, court administration, and prison and probation services.⁶

The United Nations Standard Minimum Rules for the Treatment of Prisoners (hereinafter the Nelson Mandela Rules), adopted by the General Assembly in December 2015, resulted from an extensive intergovernmental review process and represent a landmark harmonization of the original version of the Standard Minimum Rules (1957) with international law and good prison management practices. Despite their soft law nature, the 122 rules represent the consensus of the United Nations on minimum standards in prison management and the treatment of prisoners. They are therefore an essential source of guidance for all aspects of prison management, including efforts to address corruption in prison settings.

Upon the initiative of South Africa, a Vienna-based Group of Friends of the Nelson Mandela Rules was formed in the course of the twenty-sixth session of the Commission on Crime Prevention and Criminal Justice in May 2017. This informal, open-ended group of like-minded Member States has, as two of its main purposes, (a) to maintain the momentum generated by the adoption of the Nelson Mandela Rules for prison management, and to reform by raising awareness of the Rules and promoting their practical application worldwide; and (b) to convene expert consultations on priority aspects relating to prison management during future sessions of the Commission on Crime Prevention and Criminal Justice and facilitate common positions, as appropriate.

³ See, in particular, the *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, adopted by General Assembly resolution 70/175 of 17 December 2015; also see the *United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules)*, adopted by General Assembly resolution 65/229 of 21 December 2010; the *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*, adopted by General Assembly resolution 43/173 of 9 December 1988; and the *Code of Conduct for Law Enforcement Officials*, adopted by General Assembly resolution 34/169 of 17 December 1979.

⁴ As of 15 August 2017.

⁵ Held in Panama City, Panama from 25 to 29 November 2013 and in St. Petersburg from 2 to 6 November 2015, respectively.

⁶ Conference resolution 5/4, "Follow-up to the Marrakech declaration on the prevention of corruption".

Purpose and objectives of this handbook

The United Nations Office on Drugs and Crime (UNODC) supports Member States in their efforts to meet the requirements of the Convention against Corruption and in managing their prison systems in alignment with the Nelson Mandela Rules. In that capacity, and based on increasing requests for support in the fight against and the prevention of corruption in prisons, UNODC has developed this handbook. The result of a collaboration between the Corruption and Economic Crime Branch and the Justice Section of UNODC, it will complement both the Criminal Justice Handbook Series on prison reform and the publications on judicial and prosecutorial integrity and on police accountability, oversight and integrity.

Through this handbook, UNODC seeks to formally acknowledge and articulate a problem endured by all jurisdictions and to underline the international commitment to addressing it. The aim of this handbook is not simply to *address* corruption once it occurs but also to help Member States *prevent* corruption and protect prisoners, staff and communities from its insidious consequences. This is without prejudice to the fact that the management of prisons is one of the most difficult and demanding tasks that societies require, and many prison leaders and staff work with great professionalism and commitment to provide safe, decent and just conditions in prisons.

More specifically, the handbook highlights which articles of the Convention against Corruption⁷ and which provisions of the Nelson Mandela Rules are of particular relevance to preventing corruption in prisons and presents practical measures to implement those provisions to strengthen integrity, accountability, transparency and oversight in the prison system. While it is not a direct focus, this handbook also recognizes the correlation between the level of corruption and the prevalence of torture and ill-treatment: corruption breeds ill-treatment, disregard for human rights and contributes to the prevalence of corruption.⁸ Eradicating corruption and preventing torture and ill-treatment are therefore often interdependent, not disparate, processes. Corruption within a country in general, and the prison system in particular, seriously impedes the eradication of torture and ill-treatment. Therefore, in order to prevent torture and ill-treatment, it is also critical to prevent and eradicate corruption.⁹

As the research for this handbook has shown, there is still a considerable gap in data collection and analysis of the extent of corruption in prisons. Only a few case examples and anti-corruption measures focusing on prisons are documented and available. It is hoped, therefore, that this handbook will motivate more Member States to proactively address the challenge of corruption in prisons and to contribute to the growing body of knowledge and experience in this field.

Limitations of this handbook

This handbook addresses corruption in prisons, herein defined as all authorized places of detention within a criminal justice system, holding all prisoners, including those who are held during the investigation of a crime, while awaiting trial, after conviction and before and after sentencing. The term does not cover detention centres holding people detained

⁷ Those include, among others, articles 7 Public sector, 8 Codes of conduct for public officials, 10 Public reporting, 13 Participation of society and 33 Protection of reporting persons.

⁸ *Seventh Annual Report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Committee against Torture*, 52nd session 28 April–23 May 2014 (CAT/C/52/2). The report surveys the work of the Subcommittee during 2013.

⁹ *Ibid.*

due to their irregular immigration status; special health facilities where persons may be held against their will; or special facilities in the form of prevention detention, such as in the case of terrorism suspects. Many of the considerations discussed in the handbook, however, will be equally relevant and applicable to these other forms of detention.

The focus of this handbook is on the prevention and elimination of corruption, herein defined as instances where the action of a person in his or her capacity as a public official or a person entrusted with the performance of a public function is influenced by his or her private interest in gaining an undue advantage (tangible or intangible, pecuniary or non-pecuniary) for himself, herself or another person or entity. The handbook will therefore not be able to cover all forms of misconduct, mismanagement and abuse of office. Nevertheless, it is understood that those actions and offences often overlap with corruption and reinforce each other. Several of the measures described in this handbook will specifically target the risk of corruption; others will be aimed at strengthening accountability, transparency and oversight more broadly, since those measures help to prevent and deter all forms of abuse and misconduct, including corruption.

The particular and often wide-ranging challenges of reforming and rehabilitating prisons in a post-conflict situation or in a context where systematic human rights violations have occurred or continue to occur merit a more in-depth discussion than is possible within the scope of this publication. In such environments, it is likely that systems will have collapsed completely and institutional knowledge will be absent. Establishing or restoring a prison system based on order, constructive staff-prisoner relationships and respect for human rights, including efforts to address the potential for corruption, will be an enormous task that may also require the assistance of external advisers, including from the corrections component of a United Nations peacekeeping mission.¹⁰ Effective vetting, a subject discussed in more general terms in chapter 4 of this handbook, is one measure of particular importance in such contexts. While the considerations relating to preventing and combating corruption in the prison context discussed in this handbook also apply in post-conflict settings, a more in-depth discussion of the additional challenges that are faced in such situations is likewise beyond the scope of this publication.

¹⁰ For a discussion of how co-located UNMISS personnel provide technical support to prison staff in South Sudan, including by protecting the national prison administration against allegations of corruption and prisoner abuse, see e.g. *DPKO Justice Corrections Update* (2014), p. 38. Available at <http://www.un.org/en/peacekeeping/publications/cljas/DPKO-Justice-Corrections-Update-2014.pdf>.

Part I

**Origins and manifestations of
corruption in prisons**

1



Unique features of the prison environment

United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)

Rule 4

1. The purpose and justification of a sentence of imprisonment or a similar measure deprivative of liberty is ultimately to protect society against crime. This end can only be achieved if the period of imprisonment is used to ensure, so far as possible, that upon his return to society, the offender is not only willing but able to lead a law abiding and self-supporting life.

Imprisonment primarily serves to protect society against crime and to reduce recidivism. This requires both the safe, secure and humane custody of prisoners as well as efforts to support their rehabilitation and social reintegration upon release, as outlined in the Nelson Mandela Rules, Rule 4, cited above. Corruption can undermine both of these fundamental objectives.

1.1. Prisons as closed environments

Prisons are closed environments, guarded 24 hours a day, seven days a week, in order to prevent prisoners from escaping (*security*) or causing harm to themselves or others (*safety*). With limited and strictly regulated access from external parties, prisons throughout the world tend to be relatively isolated from society, with prisoners easily being forgotten by the general public. In many countries, proper monitoring and inspections of prison facilities, including by bodies independent of the prison administration,¹¹ may be weak or even absent, and there may be little or no involvement of other external actors, including civil society, in the delivery of services in prisons. This can result in situations in which senior prison management, line ministries, other relevant State authorities and the general public are not made aware, on a regular basis, of the challenges encountered in prisons, including

¹¹ Rule 83 of the Nelson Mandela Rules establishes a twofold system of internal and external inspections for prisons (see chapter 6).

the scale and impact of corruption. In numerous Member States, the absence of effective monitoring and inspection systems or the lack of a meaningful follow-up to corresponding findings and recommendations impedes the ability to effectively address corruption in prisons, while prison settings are particularly vulnerable to corruption risks:

The incentives for bribery and extortion rise as the threat of incarceration grows, reaching their peak when an individual is actually placed behind bars. Many prisoners will be willing to pay whatever it takes to win their freedom, or at least to gain extra privileges within the prison setting, and some prison personnel will be willing to sell freedom or privileges. This leads to considerable risks of corruption in the detention/incarceration phase of the criminal justice system in every country.¹²

It is further important to note that deprivation is an inherent feature of imprisonment. In 1958, the American criminologist Gresham M. Sykes argued that five fundamental deprivations characterized daily prison life: the loss of (a) liberty; (b) desirable goods and services; (c) sexual relationships; (d) autonomy; and (e) security, collectively referred to as the “pains of imprisonment”.¹³ Similarly, the Nelson Mandela Rules, Rule 3 acknowledges that “[i]mprisonment and other measures that result in cutting off persons from the outside world are afflictive by the very fact of taking from these persons the right of self-determination by depriving them of their liberty” and therefore require that “the prison system shall not, except as incidental to justifiable separation or the maintenance of discipline, aggravate the suffering inherent in such a situation”.

Reducing the “pains of imprisonment” as much as possible and regaining some degree of freedom is a natural and understandable goal for the majority of prisoners. Many will seek to achieve this goal through legitimate means, including through good behaviour so as to gain additional privileges or to be assigned to a less restrictive prison regime. Others, however, will seek to exploit the weaknesses of the system, including, for example, by attempting to corrupt prison staff, as they feel that they have much to gain but only little to lose, especially if faced with a long-term sentence. The concentration of so many individuals with a criminal background—many of whom have been confined for long periods of time, have suffered or continue to suffer from deprivation, and are often housed in overcrowded, poorly designed or even dilapidated buildings—creates exceptionally challenging circumstances that affect the state of mind and behaviour of both prisoners and prison staff. Indeed, the environment of prisons revolves around crime like no other institution.

From an outside perspective, and due to their closed nature, prisons are often perceived as places of incapacitation, where crime presumably cannot be committed. However, reports of drug abuse, gang activities, violence and corruption taking place within prisons have put the particular vulnerability of prisons to crime, violence and corruption into the spotlight. Crime can and does take place in prison. Often, perpetrators who find themselves in prisons merely adapt to the change of environment, and corruption becomes a tool to commit criminal offences while in detention.

¹² Richard E. Messick and Sofie A. Schütte, *Corruption Risks in the Criminal Justice Chain and Tools for Assessment*, U4 Issue, No. 6, March 2015.

¹³ Gresham M. Sykes, *The Society of Captives* (Princeton, New Jersey, Princeton University Press, 1958), p. xiv. While dated, the basic tenets of his appraisal of the impact of imprisonment still hold valid today: “[T]he prisoner’s loss of liberty is a double one — first, by confinement to the institution and second, by confinement within the institution. The mere fact that the individual’s movements are restricted, however, is far less serious than the fact that imprisonment means that the inmate is cut off from family, relatives, and friends ... It is not difficult to see this isolation as painfully depriving or frustrating in terms of lost emotional relationships, of loneliness, and boredom. But what makes this pain of imprisonment bite most deeply is the fact that the confinement of the criminal represents a deliberate, moral rejection of the criminal by the free community” (ibid., page 65).

It has been noted, for example, that unless a prison is properly managed, organized criminals may even strengthen their capacities while serving their sentence: “Through corruption, and particularly the use of mobile phones, organized criminals can easily continue to run operations from within their prison cells. Indeed, many organized criminals seek to take full advantage of the benefits available to them, such as education and qualifications, which can enhance their operations even further.”¹⁴

The closed nature and impact of imprisonment create an environment that not only makes those deprived of their liberty prone to instigating corruption; it may equally serve as a catalyst for corrupt practices and abuse among prison service officers, particularly if coupled with a lack of accountability and oversight. Corrupt practices may take place in the area of hiring and managing staff, in the financial management of prisons, in procurement, or in day-to-day operations, with a direct negative impact on respect for the rights of prisoners (see chapter 2).

1.2. Risks and needs within the prison population

Prisons house a particularly challenging part of the national population, all of whom are suspected of, or have been convicted for, having committed a criminal offence. At the same time, prisoners are not a homogeneous group and differ significantly with regard to their legal status, gender, age and duration of sentence, as well as physical and mental health, literacy and numeracy, language, culture and ethnicity.

The Nelson Mandela Rules require prison administrations to “take account of the individual needs of prisoners, in particular the most vulnerable categories in prison settings” (Rule 2(2)).

Many prisoners will have poor social, educational and vocational skills, come from marginalized groups in society, and/or have special needs, making them even more dependent on certain services and professional prison staff and at risk of being exploited as a result of corrupt activity. In addition to female prisoners and juveniles deprived of their liberty, the following categories, among others, should be kept in mind in this regard:

- Prisoners with mental health care needs
- Prisoners with drug dependence
- Ethnic and racial minorities and indigenous peoples
- Foreign national prisoners
- Older prisoners
- Lesbian, gay, bisexual and transgender prisoners

For guidance on how to cater to special needs groups within the prison population, see the UNODC Handbook on Prisoners with Special Needs.¹⁵

Who they are as individuals and where they stand in terms of their criminal proceedings will also significantly influence whether they are likely to become a victim of corruption or have a propensity to corrupt other prisoners or staff. Whether a prisoner is held on remand, has just started serving his or her sentence or is close to being released on parole, for example, affects his or her propensity toward engaging in corruption, with

¹⁴ Transparency International, *Corruption in the UK: Part 2—Assessment of Key Sectors* (London, 2011), p. 29. Available at <http://www.transparency.org.uk/publications/corruption-in-the-uk-part-two-assessment-of-key-sectors>.

¹⁵ See UNODC *Handbook on Prisoners with Special Needs* (2009), available at https://www.unodc.org/pdf/criminal_justice/Handbook_on_Prisoners_with_Special_Needs.pdf

risks being particularly strong at the pretrial stage. The prospect of having a criminal record, paying a fine, or, in the worst case, losing one's freedom may create a powerful incentive for suspects or defendants to resort to corruption and for those holding power over their fates to abuse this situation at different stages of the criminal justice process.¹⁶

The (alleged) offences of prisoners will range from relatively minor transgressions to the most heinous crimes. Some will have been involved in just one offence; others may have committed many offences, possibly over extended periods of time. Some prisoners will belong to serious organized crime groups or other networks based on exploitation and abuse. Such individuals need not be many in number, but their impact on a prison can be severe if their efforts to condition, manipulate and corrupt others and to canvass networks both inside and outside the prisons are successful.

There will therefore be prisoners with a propensity to exploit others or to develop a tendency towards such behaviour. For a few, this tendency will emanate from inherent psychopathic traits; for most, it will stem from their continued engagement in, or exposure to crime, including those belonging to serious organized crime groups or other networks based on exploitation and abuse.

It is important to note that the hierarchy among prisoners plays a major role in shaping corruption in prisons. In many jurisdictions, strong hierarchies exist within which every prisoner is assigned his or her specific place.

In practice, however, the above distinction into prisoners with special needs on the one hand, and high(er)-risk prisoners who may corrupt others on the other hand, is by no means clear-cut, nor will it necessarily remain stable over time. Accordingly, two points are important to bear in mind: (a) there is a wide spectrum among prisoners in terms of special needs and the risks that they may pose; and (b) the prison administration must continuously gather information in order to be able to effectively assess the risk of corruption taking place in prisons. Moreover, the risks and needs of prisoners may change over time.

1.3. Prison staff and human resources management policies

Prison administrations, managers and staff have a unique level of control and power over prisoners and their well-being. This situation creates an increased risk in terms of abuse of power and corruption and requires correspondingly high levels of diligence and oversight. As noted earlier, pretrial detainees may be particularly vulnerable to corrupt practices:

Once in custody, pretrial detainees are often at the mercy of the detaining authorities, particularly in countries where legal aid or other forms of legal representation are lacking or deficient. They or their families are frequently forced to pay for access to services and treatment to which they are entitled under national and international law, including food, drinking water, medication, or contact with family members. Additionally, they are forced to pay to “prevent” torture or other mistreatment, and demands for bribes are often combined with the threat or actual use of torture.¹⁷

¹⁶ See, for instance, Open Society Foundations, “Fact-Sheet: Pretrial Detention and Corruption” (2013).

¹⁷ Open Justice Foundations and UNDP. *The Socioeconomic Impact of Pretrial Detention* (New York, 2011), p. 19.

In a 2009 report, the Working Group on Arbitrary Detention of the United Nations Human Rights Council noted that it had “observed, during the various visits conducted, the devastating effects caused by corruption on the effective fulfilment of human rights, including the right to be free from arbitrary detention” and “identified, as one main cause for this discrepancy between theory and practice, the issue of corruption”.¹⁸ The report called upon States to study the measures for the prevention and prosecution of corrupt practices comprised in the Convention against Corruption in order to eradicate corruption from their system of administration of justice. Acknowledging the significant risk of corruption in prisons and subsequently identifying and analysing specific challenges and vulnerabilities (for example, in human resources management, standard operating procedures or independent oversight) are crucial steps for prison administrations to develop measures that mitigate corruption and enable a prison service to carry out its essential functions.

Even though the Nelson Mandela Rules and the Convention against Corruption call for the careful selection of every grade of prison staff in order to ensure integrity, humanity, professional capacity and personal suitability,¹⁹ many jurisdictions give insufficient attention to the proper recruitment, training and management of prison officers. Very often, this goes hand in hand with the low social status that prison staff are afforded in many countries. In fact, a large majority of prison staff will originally not have sought a career in the prison service. Instead, they might be former military personnel in need of new employment or persons who have been unable to find other employment in the public sector. Salaries of prison staff are often inadequate—a deficiency which further contributes to dissatisfaction and corrupt practices. Moreover, tailored training courses for prison staff may not always be available, and prison staff may be expected to learn on the job with very little formal training or adequate supervision. This prevalence of informal or inconsistent training and inadequate human resources management is in stark contrast to the complex and demanding work of prison staff, who perform one of the most challenging and complex of public services. As a result, individuals may get appointed who are unsuitable to serve as prison officers, and prison staff may not be sufficiently prepared to carry out their day-to-day tasks or interact with prisoners in a professional manner. Moreover, prison staff may be unaware of where to find guidance in case of need, and the disciplinary management system may be ineffective. A low probability of sanctions can undermine any deterrent effect and create the perception that wrongdoing is tolerated. The consequences of such serious deficiencies in human resources management, including with regard to the risk of prison staff becoming vulnerable to corrupt practices, are obvious.

Because prison staff exercise significant power over the individuals in their custody, prison management requires a high degree of formal structure and order, especially within medium and maximum security institutions, to ensure the safe, secure and humane custody of prisoners. A strong structure based on clear responsibilities and procedures for all processes, including procedural security and disciplinary measures, is essential for curbing corruption. In an unstructured environment without clear rules, prison staff may see corrupt practices as “the way things are done,” and their behaviour may be influenced by the real or perceived unlikelihood of getting caught or getting punished if caught engaging in corruption. The tone from the top is paramount in creating a culture of integrity and rule adherence.

Despite the need for a high degree of regulation in prisons, it is important that prison staff retain an appropriate degree of latitude to choose the course of action that will resolve problems and challenges in accordance with the imperative of keeping prisoners

¹⁸ Report of the Working Group on Arbitrary Detention, A/HRC/10/21.m16 February 2009, paras. 56-64.

¹⁹ In particular, Nelson Mandela Rules, Rule 74(1) and United Nations Convention against Corruption, article 7, para.1. See further details in chapter 4.

safe, secure and treated humanely while in custody. Indeed, the ability to judge situations, to know when to allow for flexibility and when to adhere closely to rules and regulations, sets an exceptional prison officer apart from an officer just doing his or her job. In light of the aforementioned human resources management challenges in many prison administrations, however, the incentives and opportunities for corrupt behaviour among prison employees engaged in low-visibility discretionary actions within prison systems are many. The importance of proper supervision of prison staff (including regular staff evaluation), reinforcement of rules and procedures through incentives and sanctions, and prison staff support systems (including counselling) cannot be overstated.

Finally, it is important to note that the unique environment in which prison officers work can contribute to a strong team spirit among staff. This positive aspect of team spirit, however, can also turn into a suffocating corps mentality. Pacts of silence among staff, also known as “esprit de corps,” contribute to a culture of impunity.²⁰ A similar phenomenon has been identified with regard to police corruption, for example, where officers follow the “blue code,” an unwritten rule that police officers do not to report or testify against alleged or actual unethical or illegal acts committed by colleagues. Prison staff may likewise refuse to cooperate in the investigation of critical events of staff misconduct in order to protect fellow staff members or fail to report information that may give rise to an allegation of staff misconduct. Many prison staff members would rather risk being subject to disciplinary sanctions themselves than violate a potential “code of silence” within the correctional community. In the most extreme cases, prison officers may not only be pressured to turn a blind eye to corrupt practices of colleagues or superiors, but even to take part in the corrupt act themselves.

Equally dangerous is the reaction of prison management to classify every act of corruption that comes to light as an act of an individual, a “bad apple.” Undoubtedly, there are cases where an individual managed to pervert or circumvent even a well-designed corruption prevention system without the involvement or knowledge of colleagues. In many cases, others are involved. In fact, it is fair to say that a “bad apple” will only rarely be able to successfully carry out an act of corruption unless there is also an environment that, at the systemic level, enables him or her to do so. Any thorough analysis of corruption risks should therefore also analyse the circumstances surrounding that individual and design adequate measures to prevent and fight corruption at the systemic level.

1.4. Staff-prisoner relationships and dynamic security

The success of prison systems in achieving their key objectives, including safeguarding the prison population and creating an environment conducive to rehabilitation, relies to a significant degree on staff-prisoner relationships. Where those relationships are well-managed, controlled and constructive, a positive environment can be created. Where relationships between prison inmates and staff are poor or non-existent, prisons become dangerous places for prisoners and prison staff, as well as for the communities that they serve.

It is often assumed that impregnable walls and fences, supplemented by advanced technology in the form of security cameras and sensors, exemplify effective high security. Similarly, it is often assumed that issuing instructions to staff in the form of a manual on how to operate the prison automatically creates adherence to the procedures laid

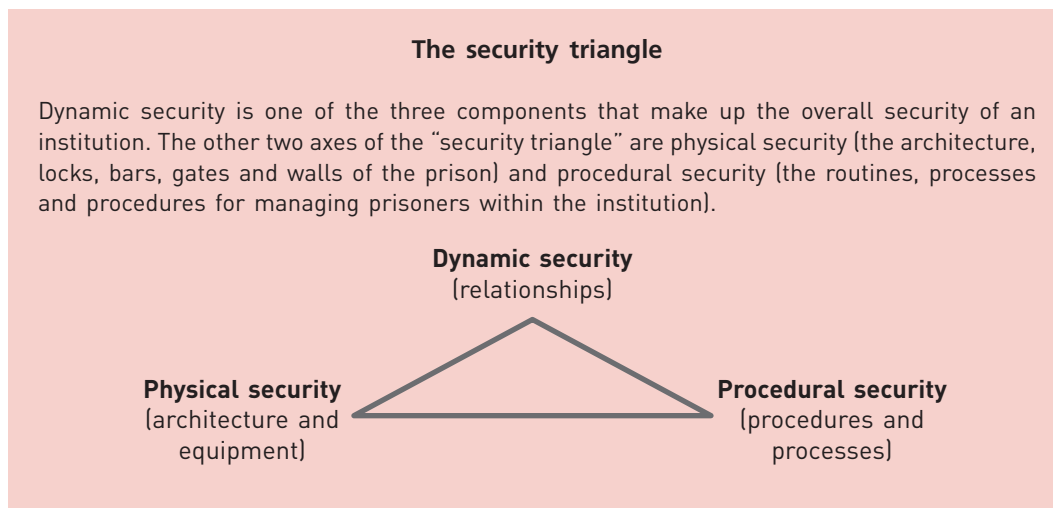
²⁰ Penal Reform International, *Institutional Culture in Detention: A Framework for Preventive Monitoring*, a Detention Monitoring Tool Resource, 2nd edition (London, 2015), p. 9. Available at <http://www.penalreform.org/wp-content/uploads/2016/01/culture-in-detention-2nd-ed-v6.pdf>.

down in such instructions. However, while physical and procedural security arrangements are essential features of any prison, they are not sufficient in themselves to ensure prison safety and security, which also depend to a large extent on the following human factors:

- Staff awareness of what is going on in the prison and alertness
- How well staff interact with and the extent to which they know the prisoners they supervise
- Positive staff-prisoner relationships
- Fair treatment of prisoners by staff
- How effectively prisoners are engaged in constructive and purposeful activities that contribute to their future reintegration into society.

Together these elements of the staff-prisoner relationship create what is often described as “dynamic security.”

Figure 1. The security triangle



For more in-depth information about dynamic security in prisons, see chapter 2 of the UNODC Handbook on Dynamic Security and Prison Intelligence.²¹

The security and safety of a prison will be at its most effective when all three elements of the security triangle—(a) dynamic security in form of good relationships between prison staff and inmates; (b) physical security in terms of infrastructure; and (c) procedural security in terms of comprehensive, law-based procedures and processes—are in balance. The disregard of any one of these three components, in particular dynamic security, or the excessive dependence upon one element of security, such as infrastructure, is likely to render a prison insecure and unsafe for those living and working there and may pose a risk for the communities that the prison serves.

These considerations equally apply when looking at how to prevent and combat corruption in a prison context. Infrastructure that leaves too many blind spots, procedures that do not sufficiently address corruption risks, and ill-managed staff-prisoner relationships are all potential “enabling factors” for corruption. When discussing anti-corruption

²¹ See UNODC *Handbook on Dynamic Security and Prison Intelligence* (2015), available at https://www.unodc.org/documents/justice-and-prison-reform/UNODC_Handbook_on_Dynamic_Security_and_Prison_Intelligence.pdf

measures in a prison context, it is therefore important to look closely at the concept of dynamic security and make observations on the relationship between staff and prisoners. In most prison systems, this relationship will encompass both cooperative and coercive elements in a dynamic exchange that can best be described as the “staff-prisoner relationship continuum.”

At the one end of this continuum, prison staff exercise full control with the goal of ensuring the safety and security of prisoners, staff, and all other persons in prison at all times. The Nelson Mandela Rules require that this authority is translated into prison staff carrying out their duties with integrity and in a professional and humane manner. Furthermore, Rule 77 states that “[a]ll prison staff shall at all times so conduct themselves and perform their duties as to influence the prisoners for good by their example and to command their respect.”²² However, when staff recruitment, training and management are inappropriate, the power of prison staff over prisoners may be abused to corrupt prisoners and to take advantage of their strong dependence on prison staff for meeting even their most basic needs such as adequate food or access to health care. Moreover:

Torture, ill-treatment, human rights abuses more broadly and corruption are inextricably linked; where there are higher levels of corruption, more instances of torture and ill-treatment are usually found. In States where there is corruption, there is less likelihood of ill-treatment being discovered and/or appropriate action being taken against those responsible. Therefore, the existence of corruption within a State seriously impedes moves to eradicate torture and other ill-treatment. In order to combat torture and ill-treatment, States must take all appropriate steps to eradicate corruption, in accordance with international law.²³

At the other end of this continuum, prisoners are dominant in the power relationship and can use their power to corrupt those in charge of ensuring their custody. Certain dominant prisoners may seek to condition, manipulate or corrupt staff, using threats, intimidation, coercion or other forms of pressure to affect the way in which prison staff behave and respond.²⁴ In such circumstances, there is a real danger that some prison staff will respond by retreating into a passive role in which they do little to enforce rules or ensure overall safety and security in prisons,²⁵ let alone correct prisoners’ behaviour. In fact, such a retreat from duty and responsibility can enable organized crime to gain influence within the prison. Ultimately, it may even cause a complete loss of control: “In prison systems in some countries, those managing prisons have lost control of their institutions and have allowed powerful groups of prisoners to exert an illegal system of control over both other prisoners and staff.”²⁶

An environment characterized by fear and insecurity can contribute to the development of an “us versus them” mentality in prison officers and lead to the overuse of coercion or even violence to demonstrate power—all factors which add to the deterioration of the integrity of prisons and, ultimately, the rule of law.²⁷

²² See also Nelson Mandela Rules, Rule 74 (1).

²³ *Seventh Annual Report of the Subcommittee on Prevention of Torture*, para. 98 (see introduction, footnote 8).

²⁴ For further detail, see UNODC *Handbook on the Management of High-Risk Prisoners*, Criminal Justice Handbook Series (2016). Available at https://www.unodc.org/documents/justice-and-prison_reform/HB_on_High_Risk_Prisoners_Ebook_appr.pdf

²⁵ See Rule 1 of the Nelson Mandela Rules, which stipulates that the “[t]he safety and security of prisoners, staff, service providers and visitors shall be ensured at all times.”

²⁶ Andrew Coyle, *A Human Rights Approach to Prison Management: Handbook for Prison Staff*, 2nd edition (International Centre for Prison Studies, London, 2009), p. 60.

²⁷ For the particular aspect of fear among prison staff, see A. Goldsmith, et al, *Tackling Correctional Corruption* (Palgrave Macmillan, 2016), p. 1, 84 et seq.

Report on the Human Rights of Persons Deprived of Liberty in the Americas

In a 2011 report, the Inter-American Commission on Human Rights emphasized how important it is for the State to guarantee and safeguard the human rights of persons in its custody:

[T]he first duty of the State as guarantor of the persons under its custody, is the duty to exercise effective control and internal security of the prisons. If this essential condition is not met, it becomes difficult for the State to ensure the fundamental legal rights of persons in its custody. In this regard, it is unacceptable from every point of view that there are a number of prisons in the region that are governed by systems of “self-government”, in which effective control of all internal aspects of the prison are in the hands of certain prisoners or criminal gangs, or systems of “shared governance”, in which these gangs share the power and profits with the prison authorities. When this occurs, the State becomes unable to guarantee the minimal human rights of prisoners and completely turns upside down and distorts the object and purpose of the deprivation of liberty. In these cases, there is an increase in the levels of violence and deaths in prisons; a creation of dangerous circles of corruption, among other consequences of the lack of institutional control in prisons.

Source: Inter-American Commission on Human Rights (2011), OEA/Ser.L/V/II., Doc. 64, para. 14.

Applied research into staff-prisoner relationships has explored the legitimacy and power dynamics in prisons. According to J.R. Hepburn, staff might draw upon six types of power bases in a prison:

- Coercive power (e.g., the use of segregation, searches, transfer, disciplinary system, etc.)
- Reward power (the distribution of privileges, prized jobs, favourable reports, etc.)
- Legitimate power (formal authority, the “rule of law”)
- Exchange power (the informal reward system; under-enforcement and accommodation)
- Expert or “professional” power (expertise, e.g. in resolving conflicts, competence)
- Respect or personal authority (officers’ manner of working with prisoners, leadership skills)²⁸

It should be noted, however, that the power dynamics may be inverse and that a number of these “powers” listed above can be equally exerted by prisoners on prison staff. Indeed, in understanding these relationships in the context of corruption, it is important to acknowledge that within the closed institutions of prisons, there often exists a high degree of mutual dependency between staff and prisoners.

Example: British prisoner “Mick” on corrupting staff

The following brief account is an example of how prisoners may go about corrupting prison staff in a seemingly casual but deeply manipulative manner:

“You would get to know the officer—their name—you get to know what shift patterns they are on—you just basically be friendly. You would set them up. My favourite one

²⁸ J.R. Hepburn, “The Exercise of Power in Coercive Organisations: A Study of Prison Guards,” *Criminology* 23(1), February 1985, pp. 145–64.

Example: British prisoner “Mick” on corrupting staff (continued)

was to set up someone to give the officer problems. Then I would come along as the person helping them out. Then they would break down their guard to you.

I had one guy—he was about six foot five [196 cms]—he was a problem on the wing. No-one could really talk to him but I had a good rapport with him because I had taken the trouble to get to know him. I would tell him I would give him something if he would cause problems for a particular person today—about banging up [locking up] or something and I would come in as the rescuer of that particular officer. ... I'd pull him away and take all the confrontation away from her [the officer]. ... And then you build a rapport from that.

The next stage you get to know the person, what they do, what their hobbies are. And if they carry on talking to you and opening up to you—the more they open up to you the more you are getting your foot in the door. And if the progression is good and if they don't cut you off abruptly you know there's an angle you can get in there. You have to adjust yourself to see how you are going to put “that” question. So you find out if they have got a boyfriend, if they have financial problems or if they like to go on holiday. You begin to know how to tap them [gain knowledge about them]. So you ask how they would feel about getting a holiday for them paid for—full expenses paid. So if they say: ‘what would I have to do for it’—that's your opening. And it does happen—there is human weakness—money.”

Source: John Podmore, *Out of Sight, Out of Mind: Why Britain's Prisons Are Failing* (2012), p. 164 et seq.

More specifically, it has been noted that:

Staff and prisoners live in a state of mutual dependence within prison, and may share extra-institutional pressures (such as political or religious affiliations, neighbourhoods, family problems, etc.) which serve to moderate the “basic split” so often assumed by commentators on the prison. These personal hesitations, tensions and conflicts, which shape policy, and resist attempts made to enforce compliance (for example by training audit and inspection) constitute a key and underestimated part of a prison officer's working role.²⁹

In fact, if these dynamics are either ignored or left to chance, prison staff might not only be caught in integrity challenges without guidance, but drift towards corruption and abuse of power.

1.5. Prison infrastructure and capacity

The size of the world prison population is growing. According to the eleventh edition of the World Prison Population List (2016), more than 10.35 million people, including pretrial detainees and sentenced prisoners, were held in penal institutions worldwide in October 2015. It is estimated that the world prison population has increased by 20 per cent since the year 2000, which is slightly higher than the estimated increase in the general world population over the same time period (18 per cent).³⁰

²⁹ A. Liebling, “Prison officers, policing and the use of discretion,” *Theoretical Criminology*, Vol. 4(3), pp. 333-357. Available at <http://www.observatoriodeseguranca.org/files/police%20discretion.pdf>.

³⁰ Roy Walmsley, *World Prison Population List*, Institute for Criminal Policy Research, 11th ed. (2016). Available at http://www.prisonstudies.org/sites/default/files/resources/downloads/world_prison_population_list_11th_edition_0.pdf.

Often confronted with a steadily increasing number of prisoners, many prisons are running beyond the official maximum capacity for which they were built. A solid majority of 115 of 198 countries faced a situation of prison overcrowding in 2015, with 79 countries facing serious overcrowding in prisons (25 per cent beyond official capacity) and 51 facing extreme overcrowding (50 per cent beyond official capacity).³¹ Prison overcrowding affects the physical and mental well-being of all prisoners, generates tension and violence among prisoners and between prisoners and staff, exacerbates existing mental and physical health problems, and poses immense prison management challenges, including with regard to ensuring sufficient continued supervision and control.

Unsurprisingly, corruption risks multiply when prisons are overcrowded and when basic services are not, or not fully, available. Indeed, prisoners might need to fight for access to the most basic resources via bribes. Such a situation creates increased tension, unrest and security risks. Additionally, the infrastructure, staff numbers and equipment will not be adequate to deal with the number of prisoners. This, in turn, creates a strong pressure on prison guards and results in reduced physical security. However, if maintaining control becomes the overriding priority in a prison, in particular in overcrowded institutions, this increases the likelihood that important intelligence concerning corruption is not captured and that relevant vulnerabilities are not recognized. Similarly, human rights abuses, torture and ill-treatment of prisoners may flourish under such circumstances.

Reducing prison overcrowding, a fundamental objective in itself, is thus also directly relevant to reducing the risk of corruption in prisons. Overcrowding is, to a large extent, caused by factors outside the direct control of prison administrations, such as obstacles and delays in criminal proceedings, excessive pretrial detention, punitive criminal justice policies, or the inadequate use of alternatives to imprisonment. Accordingly, reform strategies will need to be holistic, and designed and implemented in cooperation with other parts of the criminal justice system, including the judiciary and the police, in order to be effective and sustainable.

For detailed guidance on how to address situations of prison overcrowding, see the 2013 UNODC Handbook on Strategies to Reduce Overcrowding in Prisons.³²

Conclusion

While this first part of the handbook does not claim to exhaustively describe all of the many complex and unique features of the prison context that may be relevant to the prevention of corruption, it offers an important first step in mapping the particular environment of prisons and its specific challenges for establishing effective anti-corruption measures. It is clear that the mix and degree of these challenges will vary from country to country or even from prison to prison. However, the risk of corruption in prisons is real and universal.

From a policy and public management point of view, certain prison-specific factors that may be conducive to corruption may not leave much room for intervention, such as the inherent nature of imprisonment. Other factors, however, might offer strategic entry points for measures that will help to reduce the risk of corruption and foster integrity, as will be elaborated in Part II of this handbook.

³¹ United Nations Commission on Crime Prevention and Criminal Justice, E/CN.15/2016/10.2016.

³² See UNODC in cooperation with the ICRC (2013), *Handbook on Strategies to Reduce Overcrowding in Prisons*. Available at http://www.UNODC.org/documents/justice-and-prison-reform/Overcrowding_in_prisons_Ebook.pdf.

2



Manifestations of corruption in prison settings

Corruption has far-reaching harmful effects on prison staff, inmates, the public and the institution itself. In extreme cases, corruption facilitates drug trafficking, the establishment of organized crime operations and the escape of prison inmates, thereby undermining safety and security within and outside of prisons. Corruption may also directly affect the treatment of prisoners and the conditions in which they live. When bribes are demanded for providing inmates with fundamental basic services such as access to food or health care, this can have devastating consequences and put immense pressure on the affected prisoners and their families. Similar pressure is faced when bribes are solicited for access to lawyers or family members, participation in rehabilitation programmes, or in relation to early conditional release or parole decisions. Embezzlement of funds designated for prisons or misappropriation of material can significantly affect prison infrastructure and services and in turn undermine prison security.

Furthermore, prisons face the same general corruption risks that affect the administration of any public institution. For instance, corruption may take place in the areas of procurement or recruitment, where decisions may be made based on favouritism or bribes instead of quality and merit. Even though the focus of this handbook is on prison-specific situations, any comprehensive corruption risk assessment must include considerations related to these general corruption risks.

For further detailed guidance on the subject of corruption in procurement, which will not be discussed in detail in this handbook, please refer to the UNODC Guidebook on Anti-corruption in Public Procurement and the Management of Public Finances,³³ which highlights risks and mitigating measures in the pre-tender, tender and post-tender stages of procurement and measures to increase transparency and accountability.

What has to be clarified from the outset when discussing corruption in any setting, including prisons, is that corruption is more than just bribery, even though bribery might be the most prevalent or obvious form of corruption. As mentioned in chapter 1, it includes all instances where the action of a person in his or her capacity as a public official or a person entrusted with the performance of a public function is influenced by

³³ See UNODC (2013), *Guidebook on Anti-corruption in Public Procurement and the Management of Public Finances*. Available at http://www.unodc.org/documents/corruption/Publications/2013/Guidebook_on_anti-corruption_in_public_procurement_and_the_management_of_public_finances.pdf

his or her private interest to gain an undue advantage (tangible or intangible, pecuniary or non-pecuniary) for himself or herself or another person or entity. In short, corruption is *the misuse of entrusted power for an undue advantage*.

During the negotiation of the Convention against Corruption, States parties agreed to criminalize various offences, all of which fall under the general concept of corruption.³⁴ Those include bribery, abuse of function (for an undue advantage), trading in influence, and embezzlement or misappropriation of property by a public official. Offences carried out in support of corruption, namely concealment, money-laundering and obstruction of justice, were also included. An additional corruption offence set out in the Convention against Corruption which States may criminalize, on an optional basis, is illicit enrichment as well as private sector bribery and embezzlement.

For further information on whether and how States parties to the Convention against Corruption have criminalized these offences, to which extent the State party complies with the requirements of the Convention against Corruption, and which recommendations were given to the State party to improve the implementation of the Convention against Corruption under the Implementation Review Mechanism, see the Country Profile Pages on the UNODC website.³⁵

Corruption cases may not only involve public servants working in prisons but may also involve visitors and staff of companies to which a prison-related public service (or a part thereof) has been outsourced. These may include, for instance, companies contracted for maintenance and the delivery of utilities, including food; external specialists supporting the delivery of rehabilitation programmes and other support services for prisoners; or prison doctors and other health-care professionals. The Convention against Corruption obliges States to criminalize bribery and other corruption offences committed by public officials. In this regard, article 2 of the United Nations Convention against Corruption specifies that the term “public official” is to be understood widely and should include “any other person that performs a public function, including for a public agency or public enterprise, or provides a public service.” States should therefore ensure that the terms used in the relevant national laws are broad enough to cover all relevant providers of public services. They should include officers employed by various public sector institutions who have been assigned to work in prison and persons who provide prison-related public services, even though they are not civil servants but employed by a private company.

Situations where corruption takes place between prisoners warrant a brief discussion from a legal perspective. There are cases in which prisons are, to a significant degree, under the control of inmates. This means that a prisoner might face a situation in which he or she is required to pay a head of cell or another prisoner for protection or access to services. This may happen with the consent of prison guards who collaborate with inmates to run parts of a prison or where a prison is de facto run by strong organized criminal groups within the facility. The seventh annual report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (20 March 2014, UN-Doc. CAT/C/52/2) observed the following:

The Subcommittee has frequently heard from detainees that they must make payments to heads of cells in order to receive basic necessities and enjoy their basic rights, and that the monies paid are often shared with the prison staff. Even access to medical care, family visits, telephone calls and to submit complaints to the prison administration can be made contingent upon payments to both heads of

³⁴ See articles 15 to 25 of United Nations Convention against Corruption.

³⁵ Available at <http://www.unodc.org/unodc/en/treaties/CAC/country-profile/index.html>.

cells or other detainees and staff. The Subcommittee has also encountered situations in which the few who can pay are able to have a place in less overcrowded or better equipped cells, have greater access to facilities and be subject to a considerably less stringent regime than others. This can also include the liberty to move freely within the prison compound.³⁶

It goes without saying that such situations are unacceptable, contravene core provisions in the Nelson Mandela Rules,³⁷ and require determined State intervention aimed at re-establishing control and order.

Despite their possible de facto power, prisoners would usually not be considered to be “performing a public function” with legitimate authority. This means that any acts that they commit on their own would normally not fall within the definition of public bribery and would therefore have to be judged according to national legislation on corruption, extortion or other similar offences.

A prison officer condoning such acts or even participating in them would be liable, depending on his/her degree of involvement, as an accomplice for abuse of office through omission, bribery through an intermediary, conspiracy and/or other offences. Such situations can only be legally assessed on a case-by-case basis and will depend on the applicable national legislation, the gravity of the offences and the available evidence. (For example, did the prison officer “only look the other way”? Or did he or she instigate and benefit from the act?).

Regardless of the applicable legal classification, States should pay close attention to the need to maintain order and discipline without facilitating or allowing prisoners to exercise control over others, especially if that control is coupled with any disciplinary capacity.

To effectively address corruption, prison management and those in charge of the administrative and political oversight of prisons must be fully aware of these and other ways that corruption can manifest itself within any institution, including the prison system.

2.1. Bribery, abuse of function and trading in influence

Many acts of corruption in prisons revolve around the treatment of and conditions for prisoners. Corruption is a crime involving two actors, a recipient of a bribe and a bribe giver. The instigator of the corrupt act can be either one of them, the recipient or the giver. For this reason, the terminology of “active bribery” referring to the giver and “passive bribery” referring to the recipient can be misleading. To obtain an undue advantage, a prison officer might act or fail to act in violation of a law or otherwise intentionally alter his or her conduct in the course of official duties. Prison staff may seek or accept bribes to provide services, including such basic services as food and health care or for allowance of visits. In fact, there continue to be extreme cases where families of prisoners have been, and continue to be, extorted for payments in order to ensure that their relatives in prison receive enough food to stay healthy, or even survive—or to receive required medication or other necessary health-care services. Even though the objective criteria of bribery might be fulfilled, the overall circumstances of the case might constitute grounds for the defence against the criminal liability of the

³⁶ *Seventh Annual Report of the Subcommittee on Prevention of Torture*, para. 97 (see introduction).

³⁷ Nelson Mandela Rules, Rules 1 and 40(1).

prisoner or family member. For instance, if the State (as represented by the prison administration) was unwilling or unable to assume its duty of care towards the prisoner and the bribe was aimed at securing the prisoner's most basic needs. Such grounds for defence could ultimately determine the absence of guilt of the prisoner or the family member, or the question of unlawfulness.

Bribery is not just limited to the context of provision of services; it is also commonly used to facilitate the smuggling of contraband (drugs, phones, weapons, etc.) into prisons. Furthermore, bribery may be used to influence the physical location of a prisoner within the prison and the quality of accommodation, for example, whether he or she is housed in an individual cell as opposed to a dormitory. Bribery may be used to buy access to employment opportunities within the prison and consequent wages or to buy the right of absence from obligatory labour. It may be used to obtain progression to a less restrictive prison regime or to ensure retention in an existing facility. Bribery may occur in the context of decisions about parole or the implementation of parole measures. Such corrupt activity can have relatively low visibility, in particular if prison managers lack awareness of corruption in the form of bribery, do nothing to tackle it, and/or have no systems in place that aim to mitigate the risk of corruption.

While the bribe (or “undue advantage”) can be monetary, it may also take the form of anything else of value, such as a service or sexual favour either directly for the benefit of the prison officer or for the benefit of another person or entity.

Prison officers might misuse a situation of real or supposed influence to solicit a bribe. Trying to influence the decision of a parole board, putting a person on a list to be considered for parole ahead of the rightful date or suggesting a prisoner for relocation to a different prison facility could be classified as corruption in the form of trading in influence, bribery or abuse of function, depending on the details of the case and the applicable national legislation.

Example: Abuse of function for obtaining sexual favours

In a 1989 case, the defendant, a correctional officer in the United States, was convicted of acceding to corruption for knowingly accepting sexual favours from two prisoners in return for his violation of his known legal duty to guard the prisoners instead of seeking their sexual favours. He forced one inmate to perform sexual favours under the threat of solitary confinement if she did not comply (first case). The defendant promised another that he would take care of her once she got out of jail (second case). The defendant challenged his conviction by the Circuit Court of St. Louis County (Missouri) on several accounts, but the court upheld and affirmed the conviction for acceding to corruption.

The court found that there was evidence demonstrating what the defendant gave “in return for” the (sexual) benefit he received. In the first case, the Court noted that it made no difference that the defendant may not have had the authority to place the inmate in solitary confinement. A prisoner might well believe that the guard had this authority or could effectively recommend the threatened sanction. In the second case, the Court explained that it was irrelevant that the promise (to take care of the inmate once she was out of jail) may have been vague and indefinite; it was nonetheless sufficient to constitute an abuse of function.

Source: State v. Scott, 781 S.W.2d 64 (Mo. 1989), available at http://www.leagle.com/decision/1989845781SW2d64_1841.xml/STATE%20v.%20SCOTT.

2.2. Embezzlement and misappropriation

When discussing corruption in prison settings, consideration also needs to be given to general corruption risks in public administrations that are not related to the specific environment of prisons. Many jurisdictions opt to contract out a range of services pertaining to criminal justice that often involve large sums of money, including, for instance, awarding contracts for the construction of new prisons. Moreover, prison staff will procure a significant quantity of goods and services for the day-to-day operation of prisons, while private contractors will compete for such tenders and eventually deliver under the relevant contracts. Such contracts may therefore be attractive to criminal enterprises or individual officials as potential sources of personal gain. A further risk of embezzlement and misappropriation relates to financial transactions and cash flows associated with the management of work programmes for prisoners or prison industries, including both the payment of prisoners and the involvement of the private sector, if applicable. Embezzlement in the public sector is a widespread phenomenon from which prisons are not exempt.

Finally, the misappropriation of public property for private purposes, such as the use of official vehicles or other prison equipment for private business, also falls within this category of general corruption risks.

Example: Embezzlement by prison staff in charge of post service

X, a prison officer in France, was put in charge of serving as an intermediary between the prisoners and the public post office for incoming and outgoing mail. In this capacity, for several years, he had been taking money from letters sent to prisoners.

After several prisoners accused X of embezzlement, the prison director reported the facts to the public prosecution. While in custody in the context of the criminal investigation that then started, X revealed that he was addicted to gambling and had funded his addiction by misappropriating money sent in letters to prisoners, to which he had access through his role in the post service. He had also developed a strategy to conceal his wrongdoings by shifting the blame onto the accounting office. The criminal investigation revealed that in the time frame of less than one year, X had taken a total of over 17,000 EUR belonging to prisoners.

X, who confessed and entered a rehabilitation programme to address his gambling addiction, was convicted for embezzlement of private/public funds, fraudulent alteration of documents and the use of forged documents. He received suspended imprisonment and additional sanctions and was prohibited from exercising a public function.

Source: Court of Appeals of Colmar, Criminal Appeals, Arrêt June 20 of 2006 [available from www.lexisnexis.com].

Conclusion

As has been illustrated in the examples above, corruption in prison can take many different forms. Indeed, many of the challenges in tackling corruption in the prison setting stem from too narrow an understanding of the concept of corruption and a reluctance to examine the problem with an open mind for the wide range of participants and situations that may be involved. In prisons plagued by the smuggling of drugs and mobile phones, there may exist a tendency to jump to the conclusion that visitors are the sole culprit and exclusive source of any such contraband, rather than giving equal attention to the involvement of

prison staff. In the context of the often subtle and equally damaging manifestations of corruption in the complex interpersonal relationships between prison staff and prisoners, a broad understanding and appreciation of the potential power dynamics is vital to developing appropriate guidance and establishing effective mitigating measures.

Having described the problem of corruption in prison settings, how it manifests itself, and the role of all relevant players, the handbook will now explore the tools and anti-corruption measures that exist to mitigate corruption.

Part II

Anti-corruption measures

Good prison management and the practical application of the Nelson Mandela Rules

Part I outlined the unique nature of the prison environment and its impact on those working and living within its confines. Any specific measure to tackle corruption in prisons will naturally need to be integrated into, and able to build upon, sound prison management practices that have been designed to ensure the safe, secure and humane custody of prisoners. The inexorable link between sound prison management and the prevention of corruption must therefore be acknowledged before outlining specific anti-corruption efforts in prisons.

As outlined in the introduction of this handbook, the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), which were adopted by the General Assembly in December 2015, represent, as a whole, minimum conditions agreed upon by the United Nations. The practical application of these rules by Member States will provide important and effective safeguards against corrupt practices taking root in a prison system. Overcrowded or otherwise unordered and poorly managed facilities, on the other hand, will serve as major contributing factors for corruption.

The extent to which Member States adhere to each of the following will have a direct impact on mitigating a prison system's vulnerability to corruption:

- Assessing the risks and needs of all prisoners on an individual basis
- Classifying and allocating prisoners to a suitable prison regime as per the assessment results
- Offering a variety of rehabilitation programmes in line with actual needs in the prison population
- Ensuring that prison facilities are adequately staffed, operate in line with official capacity, and are managed by sufficiently trained prison staff
- Implementing the various safeguards in the Nelson Mandela Rules to protect prisoners' rights

While it would go beyond the scope of this publication to elaborate on good prison management and the practical application of the Nelson Mandela Rules more broadly, the importance of doing so, including for the purpose of preventing corruption, cannot be overstated.

For further detailed guidance on good prison management in line with international standards and norms, see the UNODC Criminal Justice Handbook Series related to prison reform, including, for instance, the UNODC Handbook for Prison Leaders;³⁸ the UNODC Handbook on Strategies to Reduce Overcrowding in Prisons;³⁹ and the UNODC Handbook on Assessing Compliance with the Nelson Mandela Rules: A Checklist for internal inspection mechanisms.⁴⁰

³⁸ See UNODC, *Handbook for Prison Leaders*, Criminal Justice Handbook Series (2010). Available at http://www.unodc.org/documents/justice-and-prison-reform/UNODC_Handbook_for_Prison_Leaders.pdf.

³⁹ See UNODC, in cooperation with the ICRC, *Handbook on Strategies to Reduce Overcrowding in Prisons*, Criminal Justice Handbook Series (2013). Available at http://www.unodc.org/documents/justice-and-prison-reform/Overcrowding_in_prisons_Ebook.pdf.

⁴⁰ See UNODC, *Assessing Compliance with the Nelson Mandela Rules: A Checklist for Internal Inspection Mechanisms*, Criminal Justice Handbook Series (2017). Available at https://www.unodc.org/documents/justice-and-prison-reform/UNODC_Checklist_-_Nelson_Mandela_Rules.pdf.

3



Risk assessments and mitigation plans

3.1. Corruption risk mitigation plans⁴¹

It is important that prison administration and staff proactively acknowledge that corruption exists in prison settings and that it poses a real problem that affects not only prison staff and prisoners, but also the general public, including public safety. When cases of prison corruption are covered by the media, there is often a tendency to focus on salacious anecdotes at the cost of a careful and detailed analysis of the problem. To avoid such misrepresentation of the problem, the prison administration may consider issuing public statements and engage in public relations work. More specifically, it can explain the complex and demanding realities of imprisonment and create awareness that humane treatment, rehabilitation and public protection are all key objectives of prisons that can be undermined by corruption. The prison administration should also publicly (re)affirm a commitment to transparency, integrity and accountability.

Measures to prevent and fight corruption can be integrated into the prison administration's existing regulatory frameworks, into wider prison or justice sector reform initiatives, or be pursued through dedicated institutional or sectoral anti-corruption policies or strategies. There is no one-size-fits-all approach—in fact, depending on the circumstances, a wide range of different approaches can yield positive results or might be required in parallel.

Some anti-corruption measures can be developed and implemented by the prison administration. Others might be established in the form of legislation that applies across the public sector, requiring the individual institution, for example the prison service, to implement specific measures. Certain anti-corruption measures might also be implemented by a dedicated authority, such as regulatory, inspection or oversight bodies.

The measures should focus on the detection, investigation and disciplinary and/or criminal sanctioning of corruption, but also—even more importantly—on the establishment of preventive measures that strengthen integrity and transparency and minimize the likelihood

⁴¹ In this handbook, the term “corruption risk mitigation plan” is used in order to emphasize its focus on measures at the institutional level, i.e. the prison administration. “Anti-corruption strategies or policies,” on the other hand, tend to refer to overarching anti-corruption documents that establish goals and measures for all sectors. Other terms used include “ethics or integrity action plans” or similar. Ultimately, the terminology is a matter of institutional preference and local language and allows for flexibility as long as the key components are included, such as clear objectives, responsibilities, timelines and budgets.

of corruption from occurring in the first place. The Convention against Corruption, and in particular its chapter II on preventive measures, provides a comprehensive framework which can be used as guidance. While a corruption-free environment is the goal, it needs to be acknowledged that the risk of corruption is a real and continuing challenge. Thus, efforts to prevent and combat corruption need to be understood as ongoing tasks.

Article 5 of the United Nations Convention against Corruption requires States parties to “develop and implement or maintain effective, coordinated anti-corruption policies” and to “periodically evaluate relevant legal instruments as well as administrative measures with a view to determining their adequacy to prevent and fight corruption.”

Unfortunately, the need to address corruption in prison settings is often side-lined by other pressing needs on the prison reform agenda, disregarding the fact that corruption might be a bottleneck and thus a contributing factor to those other needs. Anti-corruption measures assist in assuring that basic services are made available to all prisoners on an equal basis; that (scarce) public funds are spent for their intended purpose and in adherence to financial rules; and that security for staff, prisoners and the community is upheld. In addition, investigations into alleged corrupt conduct can help recover stolen assets. The Special Investigations Unit of South Africa, for example, reported the recovery of R22 million (approximately \$1.6 million) upon investigating medical fraud by prison officers.⁴²

Support for curbing corruption in the prison setting often becomes high on the political agenda only after a scandal has surfaced and has caused media attention, a public outcry and calls for a public inquiry. Examples of anti-corruption measures sparked by a public scandal include reform initiatives in the United States in response to deplorable incidents in the Rikers Island Jail⁴³ or the report of the Jali Commission,⁴⁴ which was initiated upon allegations of corruption, maladministration, violence and intimidation in the South African Department of Correctional Services.

Example: Creation of a corruption prevention service and action plan within the prison service in South Africa

The South African Jali Commission was established in 2001 by South African President Thabo Mbeki in response to alleged incidents of corruption, maladministration, violence and intimidation in the South African Department of Correctional Services, as a “Commission of Inquiry into Corruption and Maladministration in the Department of Correctional Services.” It carried out a multi-year review of the prison system and issued interim reports for matters in need of urgent attention as well as a final report^a which included general recommendations per topic (volume 1) as well as specific recommendations for different regional management areas (volume 2).

The report and subsequent follow-up actions seem to have contributed to a significant reduction in, although not the complete elimination of, corruption in South Africa’s prison system. However, the Jali Commission has also been criticized for underachieving in several areas, including safeguarding the human rights of prisoners. In an academic paper entitled “Ten years after the Jali Commission: Assessing the state of South Africa’s prisons,” Lukas Muntigh, the head of the Civil Society Prison Reform Initiative

⁴² Special Investigations Unit Findings on Investigation into the Department of Correctional Services, 16 November 2009. Available at <https://pmg.org.za/committee-meeting/11105/>.

⁴³ See, for instance, “Corruption Sweep at Rikers Island, Leads to 22 Arrests,” *New York Times*, 24 June 2014. Available at <https://www.nytimes.com/2014/06/25/nyregion/2-officers-and-20-inmates-are-arrested-in-corruption-sweep-at-rikers-island.html>.

⁴⁴ *Jali Commission Final Report*, Volume I and Volume 2 (Pretoria, 2006), pp. 407 et seq. Available at <http://www.gov.za/documents/commissions-act-commission-inquiry-jali-commission-alleged-incidents-corruption>.

at the University of the Western Cape, concluded the following: “All indications are that there Services, especially regarding corruption and maladministration, but there is plenty that remains unacceptably dysfunctional.”^b

Steps that have been taken to implement the recommendations of the Jali Commission include the creation of a national anti-corruption policy for the South African prison system, awareness raising initiatives and the creation of a whistle-blowing policy.

Source: Lukas Muntingh, “Ten years after the Jali Commission: Assessing the state of South Africa’s prisons,” *South Africa Crime Quarterly*, no. 58 Pretoria Dec. 2016. http://www.gov.za/sites/www.gov.za/files/jali_comm_full_0.pdf

^a Available at http://www.gov.za/sites/www.gov.za/files/jali_comm_full_0.pdf.

^b Lukas Muntingh, “Ten Years after the Jali Commission: Assessing the State of South Africa’s Prisons,” *South Africa Crime Quarterly*, N.58, Pretoria, December 2016. Available at http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1991-38772016000400004.

It is important to reiterate that, if such one-time events trigger an action and the development of an anti-corruption strategy, implementation, monitoring and evaluation of anti-corruption reforms should become a sustainable, firmly established and integral part of the prison administration and management that extends beyond the direct responses to the initial incident into the future, rather than remain a stand-alone initiative.

Example: Creating a corruption prevention service and action plan within the prison service in Argentina

In 2014, the Federal Prison Service of Argentina (Servicio Penitenciario Federal, or SPF) embarked on a new sequenced initiative to prevent and fight corruption within its institutions. The first step was the creation of a Corruption Prevention Service under the National Directorate of the Federal Prison Service, which is responsible for:

- Conducting research to identify risks
- Providing advice to the different units on measures to reduce and prevent corruption
- Developing an action plan to prevent corruption
- Coordinating anti-corruption measures

By 2015, the Corruption Prevention Service had established an action plan that emphasized the need for transparency and called for the diligent use of State property and resources. The action plan also underlined that one of SPF’s most important challenges was the fight against organized crime, which used corruption as an instrument to achieve its objectives.

The five strategic components of the action plan are:

1. An affirmation of the institutional ethics principles in form of a new Code of Conduct;
2. A situation assessment based on a corruption risk assessment first piloted in one detention centre;
3. Training of staff in a dedicated course on ethics, transparency and the prevention of and fight against corruption, as well as the elaboration of procedures on reporting suspected cases of corruption and measures for a higher degree of transparency in handling public funds and in human resources management;

Example: Creating a corruption prevention service and action plan within the prison service in Argentina (continued)

4. Amendments to existing rules and regulations and enhancement of procedures, with a view to addressing occurrences of suspected corrupt practices;
5. Detection, control and joint actions, in particular through the creation of a hotline and joint action programmes and conferences involving exchange with other government agencies and non-governmental organizations;

In addition, the action plan includes a quarterly reporting obligation. Several measures, such as the pilot risk assessment and the code of conduct, have since been implemented. It is hoped that the initiative will yield further positive results and receive continuous buy-in from SPF leadership.

The corruption risk assessment built on a methodology that had been developed with support from UNODC (see UNODC.org link below).

Sources: Corruption Control Policies at the Federal Prison Service of Argentina and the FPS Annual reports 2014 (page 83 et seq.) and 2015 (page 107 et seq.):
<http://www.spf.gob.ar/drive/repo/general/1617InfoGestion2014.pdf>;
<http://www.spf.gob.ar/drive/repo/general/InfoGestion2015.pdf>;
https://www.unodc.org/documents/ropan/TechnicalConsultativeOpinions2013/Opinion_4/Metodologia_para_la_elaboracion_de_un_Diagnostico_de_Riesgos_de_la_Corrupcion_en_el_contexto_penitenciario.pdf.

For further detailed guidance on the development and monitoring of anti-corruption strategies see the UNODC National Anti-Corruption Strategies: A Practical Guide for Development and Implementation.⁴⁵

3.2. Anti-corruption units or focal points

United Nations Convention against Corruption

Article 6. Preventive anti-corruption body or bodies

1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate that prevent corruption by such means as:

- (a) Implementing the [anti-corruption] policies referred to in article 5 of this convention and, where appropriate, overseeing and coordinating the implementation of these policies;
- (b) Increasing and disseminating knowledge about the prevention of corruption.

2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.

⁴⁵ See UNODC (2015), *National Anti-Corruption Strategies: A Practical Guide for Development and Implementation*. Available at https://www.unodc.org/documents/corruption/Publications/2015/National_Anti-Corruption_Strategies_-_A_Practical_Guide_for_Development_and_Implementation_E.pfd.

Article 6 of the United Nations Convention against Corruption requires States to establish a corruption prevention body or bodies. In a separate provision, article 36 of the United Nations Convention against Corruption also requires the establishment of an independent body or bodies in charge of combating corruption through law enforcement.

As long as the specific tasks are carried out in accordance with article 6 or 36 of the United Nations Convention against Corruption, the Convention is not prescriptive in regard to the specific position or composition of the body or bodies. The number of countries having established dedicated anti-corruption authorities is steadily increasing. Some of those authorities have a mandate limited to either prevention or law enforcement, whereas others are multi-purpose authorities. The mandates to prevent or combat corruption can also be added to existing bodies, such as designated units in the Ministry of Justice or the Ministry of Interior, Ombudsmen Offices, or specialized units of police and prosecution.

In order to assure the appropriate application of anti-corruption measures within sectors, ministries or institutions, authorities are increasingly turning to the creation of anti-corruption focal points or units within those bodies as well. Despite the pre-existence of units or persons with anti-corruption relevant functions such as internal inspectors, auditors or disciplinary committees, there might be a need to improve the supervision, coordination and quality control of anti-corruption efforts within their areas of responsibility.

Example: Focal Points in Argentina, Italy and South Africa

Argentina

The creation of the Corruption Prevention Service of the Federal Prison Service of Argentina, presented in the text box above, is one example of the trend for States to establish a specialized anti-corruption focal point focusing on corruption in the prison system.

However, the Argentinian Corruption Prevention Service does not discharge the individual prison managers and staff from their responsibility to prevent and combat corruption. Instead, it provides guidance and coordination and supervises the implementation of anti-corruption measures, thereby adding another layer to the work done at the level of each individual prison.

Italy

Italy has likewise created anti-corruption focal points that are located within prisons. Italy has a national corruption prevention strategy that sets out performance indicators and obligations applicable to the different institutions of the public sector, including the prison service. Each institution or administrative body is obliged to regularly report on its fulfilment of these obligations and on progress made towards the prescribed indicators. The task of reporting falls to an integrity focal point (or unit) appointed by each institution, whose accountability in cases when deficiencies are found is triggered from both a disciplinary and a managerial point of view. The focal point, in turn, does not implement all tasks related to integrity or accountability alone but instead is charged with ensuring the coordination of an overall effective implementation within his or her institution. Depending on the size and mandate of the institution, variations exist in terms of the position of the focal point and specific competencies.

South Africa

The South African Department of Correctional Service established an anti-corruption unit in 1997. However, due to lack of adequate financial support and insufficient human resources, it was ineffective in carrying out its mandate. Triggered by the Jali Commission, the South African Department of Correctional Service embarked on a drive to revitalize the unit, including by hiring new staff and developing an Anti-Corruption Strategy in 2003.

Example: Focal Points in Argentina, Italy and South Africa *(continued)*

It is important to note in this context that while an in-house anti-corruption unit or focal point may be important and useful, an additional external, independent anti-corruption body that provides oversight may significantly add to the effectiveness of preventing and combating corruption. In this regard, the report of the Jali Commission made clear that the task of preventing and combating corruption should not be left to the Department of Correctional Services alone, in particular in the area of detection and investigation:

“Although the Department’s anti-corruption strategy is to be commended, it is nevertheless clear that corruption is best dealt with by an agency that is seen to be independent and has no links to the institution being investigated. ... This does not mean that the Department should not have an anti-corruption unit, but the Commission is of the opinion that there should also be an outside agency to look into the issue of corruption. ... As the Roman maxim goes: ‘who guards the guards?’ The need, therefore, for an outsider to guard the guards cannot be over-emphasised.”

Source: Jali Commission, Final Report (2005), p. 601-603. Available at https://www.gov.za/sites/default/files/jali_comm_full_0.pdf.

Experience has shown that in order to effectively prevent and tackle corruption, the prison administration should consider the establishment or designation of a dedicated anti-corruption unit or focal point with the necessary mandate, power and resources to provide advice and coordinate and supervise the implementation of preventive anti-corruption measures. This focal point or unit should also be actively involved in the implementation of internal inspections and any other accountability measures, such as trainings on the code of conduct.

Notwithstanding the above, it is important to highlight that the existence or establishment of any such units does not replace, in any way, the requirement of regular prison inspections undertaken by bodies independent of the prison administration (see chapter 6).⁴⁶

3.3. Corruption risk assessments

The most useful starting point for the design of risk mitigation plans and corresponding measures at the institutional level is conducting a corruption risk assessment. A risk assessment is a process of identifying the specific vulnerabilities or risks that may lead to corruption in a particular setting in order to define further action to eliminate or mitigate those risks and minimize their impact.

In short, corruption risk assessments are a tool to identify weaknesses (“red flags”) and, on this basis, to develop practical responses. Corruption risk assessments differ from other corruption assessments as they focus on the potential for corruption instead of the perception or existence of corruption. This being said, evidence-based data on corruption incidents as well as information from corruption perception surveys are useful background material that should be used to inform the overall corruption risk assessment. Even if a high-profile incident has precipitated the initiative, the corruption risk assessment should strive to look across the whole system.

While there is not one common approach to corruption risk assessments, there are specific characteristics that should be met. In particular, the assessment should either be carried out

⁴⁶ The Nelson Mandela Rules, Rule 83(1) (b).

by anti-corruption specialists or by a team that has received specific training. Key elements of any assessment are: (a) solid planning of the assessment, including decisions on the timeframe, terms of reference, participants, methodology or process, and assurance of support of the managers of the assessed institution; and (b) the process of data collection itself.

The corruption risk assessment should be based on research and analysis of a wide range of information sources. Information should not be limited solely to prison-related information provided by staff and prisoners. Instead, where and as available, the assessment should also include material from a range of other sources, including law enforcement, other relevant government bodies and civil society. Using a wide basis of information can assist prison managers in understanding the prevalence and impact of corruption in prisons within and beyond the prison walls.

The data collection and assessment should consider, among other factors:

- Relevant laws as well as subsidiary legislation, including prison regulations and standard operating procedures (SOPs)
- Organizational structure and responsibilities
- Interviews with staff members working in different functions and on different levels, such as a staff representative (e.g. union) or focus groups (including faith professionals, social workers and health-care professionals) on potential vulnerabilities, motivations, etc.
- Interviews with prisoners and other stakeholders (family members, lawyers) or with representatives
- Audit reports
- Inspection reports and/or reports of internal disciplinary systems, etc.
- Information from prison intelligence units
- Data on the amount of contraband intercepted
- Reports from relevant civil society organizations, such as reports focused on anti-corruption, penal reform, or health of prisoners

Where a corruption risk assessment is carried out by a prison administration, for example by internal inspection mechanisms, it is important to note some limitations regarding the interviews with prisoners and staff. More specifically, prisoners should not be interviewed in a systematic way in such cases,⁴⁷ although anonymized questionnaires for voluntary completion by prisoners may be used. Furthermore, access to medical files and other confidential information from health-care professionals should not be granted unless the assessment team includes medical personnel independent from the prison administration.

*For further details on internal inspections in prisons, see the UNODC handbook *Assessing Compliance with the Nelson Mandela Rules: A Checklist for Internal Inspection Mechanisms*.⁴⁸*

The corruption risk assessment should consider risks related to the individual (for example, prison officer, inmate or family member), the institution (correctional facility/prison) and the wider environment (legal framework, inter-agency collaboration). Risks can further be divided into the following categories: (a) general risks that are relevant for any public sector organization (for example, procurement related); and (b) specific

⁴⁷ Confidential interviews with prisoners in the course of internal inspections would naturally pose professional and ethical dilemmas if the interview were to be conducted by an official from within the prison administration, including for instance a potential lack of trust and a risk of reprisals.

⁴⁸ UNODC (2017), *Assessing Compliance with the Nelson Mandela Rules: A Checklist for Internal Inspection*.

risks related to the mandate and processes of the assessed institution (such as entry procedures to the prison; other relevant aspects of procedural security, including the way in which body and cell searches are carried out; the storage of seized contraband; documentation and access to security-related information and prisoner files, etc.).

The collected data will help assess whether a risk is already sufficiently addressed through a framework of clear responsibilities and procedures, adequate and relevant training, and supervision and control of adherence to the anti-corruption framework. It will also help to determine whether additional measures are required.

Upon identification of the various risks, it can also be useful to engage in a risk prioritization exercise, considering, for instance, the likelihood/probability of occurrence of corrupt practices and their potential impact on the core mandate of the organization; impacts of corruption on the reputation of a prison/the prison system; and the social and financial damage caused by corruption in prisons. The prioritization will help those in charge of developing anti-corruption measures to better focus and sequence those measures.

For risks that are considered a priority and that are not adequately dealt with by the system already in place (such as missing or contradictory regulations, or lack of adherence to existing regulations), the team developing the anti-corruption response should propose and implement mitigating measures and recommendations.

The anti-corruption strategy developed on the basis of the corruption risk assessment must be realistic. The key is to develop an achievable anti-corruption plan with targeted and specific measures. At the level of an individual prison facility, it is best to focus efforts on a select few of the highest risk areas and design very specific interventions that can realistically be put into practice by the prison within the means that are available. Experience has shown that very broad or overly ambitious anti-corruption plans rarely work.

Figure 2. Sample risk prioritization matrix

| CORRUPTION RISK LEVELS | | IMPACT/CONSEQUENCE | | | |
|--------------------------|---------------------|---------------------|-------------|-------------|-------------|
| | | Insignificant/minor | Moderate | Significant | Severe |
| LIKELIHOOD / PROBABILITY | Almost certain | Medium | Medium/high | High | High |
| | Likely | Low | Medium | Medium/high | High |
| | Possible/occasional | Low | Medium | Medium/high | Medium/high |
| | Rare/unlikely | Low | Low | Medium | Medium |

Often, the implementation of some risk mitigation measures might be possible without additional resources and at the institutional level, such as regular training of prison staff on the code of conduct or rotating duty plans. Some measures might, however, require additional resources, expertise, or support from other stakeholders, such as modern scanning equipment to detect contraband or computer-based accounting systems. Both short-term and long-term measures should be developed, responding to the situation and

urgency. As discussed above, efforts should also be made to extend corruption risk mitigating measures to non-directly employed staff delivering services within the prison setting, hereinafter referred to as “external staff”.

The corruption risk assessment might also identify corruption risks that either are completely outside the influence of the institution or would require ministerial decrees or even new or revised legislation. With regard to the latter, it would be the prison administration’s responsibility to assess if and how it could advocate for the necessary legislative changes at political level. However, to keep the plan realistic and achievable, the institutional corruption risk mitigation plan should either not include risks that are outside the control of the assessed prison institution itself, or it may list them in a separate section.

Example: Advisory service of an anti-corruption body to the prison administration in Austria

The Austrian Federal Bureau of Anti-Corruption (BAK) is a multi-purpose anti-corruption body with a broad mandate in the four areas of prevention, education, law enforcement and cooperation. Under the prevention pillar, the BAK offers advisory services to other agencies with the objectives of identifying risk areas, reducing vulnerabilities, developing tailor-made preventive measures and avoiding damage caused by corruption or abuse of official authority.

In late 2015, the Austrian General Directorate for Corrections under the Ministry of Justice approached BAK and requested anti-corruption advisory services. The initiative was triggered by an ongoing process of restructuring the national prison administration and a case of negligence of a prisoner with health issues. The General Directorate for Corrections asked BAK to conduct a risk assessment in three areas: *(a)* abuse of official authority (including the risk of sexual abuse); *(b)* smuggling of contraband; and *(c)* non-reporting of alleged offences. The methodology of BAK includes an assessment of:

- Regulations (acts, decrees, SOPs, codes of conduct and ethical guidelines)
- Workflow, structural organization and human resources (human resources management, conflict of interest regulations, compliance and quality management and error management)
- Organizational cultures (values, communication within the organization) and human factors (personality traits, crises, motives and attitudes, group dynamics)

In 2016, BAK conducted several fact-finding visits, interviewed over 60 prison officers and analysed cases and documents in relation to these standards with a focus on the three predetermined risk areas. The final report with recommendations is expected in 2017.

Source: BAK Annual report 2015 and interviews with members of the BAK and General Directorate for Corrections in 2016: http://www.bak.gv.at/cms/BAK_dt/download/downloads/files/Jahresberichte/20160520_JB_2015_web.pdf and http://www.bak.gv.at/cms/BAK_en/general/start.aspx.

In addition to the corruption risk assessment methodology for prisons which had been piloted in Argentina (see example in section 3.1.), UNODC is also developing a handbook on corruption risk assessments.

Follow-up and monitoring

Once the corruption risk assessment is finalized, prison management should carefully review the assessment and take action to implement its recommendations. The proposed measures may be integrated into risk mitigation plans at the institutional and/or prison level or into a national anti-corruption strategy.

It is crucial that the prevention of corruption is not seen as an isolated event that consists only of a one-off corruption risk assessment. Instead, it must be understood and embraced as an integral responsibility of prison management to which ongoing attention must be given. It is thus essential to review progress against the recommended anti-corruption measures on a regular basis and to identify ways of effectively monitoring expected results and changes.

It is further important to bear in mind that sometimes anti-corruption measures may initially lead to an increase in detected corruption. For instance, changes in standard operating procedures relating to cell searches might result in a temporary increase in detected contraband. This is, however, not because more contraband is entering the prison; rather, the increase may result from the fact that detection of contraband has become more effective. Moreover, once word spreads within the prison that there is a new and more effective measure for detecting contraband, those involved in smuggling will reassess the risk of detection and be deterred from engaging in smuggling or will be forced to explore new methods. Such shifting targets are one of the reasons why risk assessments and risk awareness need to be seen as an integral part of management of day-to-day operations.

Finally, the impact of some anti-corruption measures might be reflected in the form of proxy indicators. Anti-corruption measures targeting procurement could, for example, lead to a measurable reduction in the cost of procured goods, while a requirement to keep a driver's logbook could result in reduced petrol consumption by the institution.

Recommendations

The prison administration, as part of the public sector, is clearly mandated to take action against corruption. It is vital that senior management in prison administrations actively acknowledge the problem of corruption in prison settings and commit to taking action in the short-, mid-, and long-term.

- Prison authorities should have a clear understanding of corruption, know the relevant national legislation and be fully aware of how corrupt conduct may manifest itself in the prison setting.
- Efforts to prevent and combat corruption need to be understood as ongoing tasks and should be firmly embedded in all core areas of prison management.
- Carrying out a corruption risk assessment should be considered as a starting point for developing an effective anti-corruption programme.
- Prison staff of different levels, as well as other external stakeholders such as medical personnel, social workers, legal aid providers and family members of prisoners, should be consulted in the course of such assessment.
- Systematic interviews with prisoners and health-care professionals, while valuable sources of information, should be restricted to corruption risk assessments undertaken by independent bodies. Alternatively, anonymized questionnaires may be used for voluntary completion by prisoners.
- Prison authorities should consider the establishment of a dedicated anti-corruption or similar unit within the prison administration's headquarters or the designation of corresponding focal points in individual prison facilities with the necessary mandates, power and resources to carry out their tasks.

4



Human resources management and staff integrity measures

The Convention against Corruption includes provisions addressing the human resources management of officers working in the public sector, which therefore apply to prison staff. With regard to prison management, the Nelson Mandela Rules as well as other relevant international standards and norms underline, in particular, the need to carefully select, train and manage staff to enable them to carry out their functions in a professional manner.⁴⁹

United Nations Convention against Corruption

Article 7. Public service

1. Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials:

- (a) That are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;
- (b) That include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;
- (c) That promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;
- (d) That promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions. Such programmes may make reference to codes or standards of conduct in applicable areas.

...

⁴⁹ See also *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)*, Rules 29 to 35; the *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*, Rules 81 to 85; the *United Nations Standard Minimum Rules for the Administration of Juvenile Justice*, Rule 22; and the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, Principles 18 to 21. At a regional level, see the *Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas*, Principle XX; the *European Prison Rules*, Rules 71 to 81.

**United Nations Standard Minimum Rules for the Treatment of Prisoners
(the Nelson Mandela Rules)**

Rule 74

1. The prison administration shall provide for the careful selection of every grade of the personnel, since it is on their integrity, humanity, professional capacity and personal suitability for the work that the proper administration of prisons depends.

...

3. To secure the foregoing ends, personnel shall be appointed on a full-time basis as professional prison staff and have civil service status with security of tenure subject only to good conduct, efficiency and physical fitness. Salaries shall be adequate to attract and retain suitable men and women; employment benefits and conditions of service shall be favourable in view of the exacting nature of the work.

Rule 75

1. All prison staff shall possess an adequate standard of education and shall be given the ability and means to carry out their duties in a professional manner. ...

Prison work is complex and demanding. It involves working with men and women who have been deprived of their liberty, many of whom have poor social and educational skills or come from marginalized groups in society. Some will be a threat to the public; some will be dangerous and aggressive; others will try very hard to escape. None of them want to be in prison. The main task of the prison administration is to hold prisoners in secure, safe and humane conditions.

Prison staff are the people who carry out this important duty and who are therefore critical in any prison system. The way in which prison officials deal with prisoners, who sometimes refuse to conform to legitimate expectations, can be one of the greatest challenges to the professionalism of prison staff. It is essential that prison administrations recognize the importance of their staff and devote significant time and resources to their recruitment and training. Ensuring that prisons have high-quality and well-trained staff must be a priority for all prison systems.

At the same time, the prison work force is diverse. Physicians and other health-care professionals, teachers and vocational trainers, psychologists, social workers and legal aid providers work alongside traditional prison staff. Some will be part-time employees, others full-time staff, and some will be outside contractors. Volunteers and civil society organizations, while not part of the classical workforce of prisons, are often involved in some provision of service.

Of these many individuals active in prison work, no one particular group is any more or less likely than any other to produce a corruptor or be corrupted. The erroneous assumption may exist that it is the “outsiders” who bring corrupt practices into the prisons, while the professional prison officers are stalwarts against such practice. However, there is considerable evidence that this assumption is false. Accordingly, any corruption risk assessment must establish precisely which individuals, groups and processes create the greatest risks for corruption in a particular prison context.

Prison officers, including possibly also experts with a medical or social service background, will generally be directly recruited by the prison administration. For them, the recruitment procedures, codes of conduct and training programmes of the prison service will be directly applicable. Others will be contracted as providers of goods that the prison procures or to deliver specific services. In the following section, human resources

rules and procedures related to the recruitment of prison staff directly employed by prison services will be discussed. Consideration will also be given to the question of whether and how these rules can be extended to cover other categories of external staff and service providers in the prison context.

4.1. Recruitment and vetting

Staff working in prisons have a very difficult job and should therefore possess maturity, intelligence, good judgment and the physical ability to perform the rigorous duties required of them. They should be even-tempered, consistent and capable of respecting diversity in the prisoner population. The difficulty of working day-to-day in an environment that is a mixture of repetitive routine, unscheduled incidents and physical and psychological challenges requires that the staff be uniquely adaptable to working in an unusual setting with persons who can present adjustment and management problems.

Much of the work of prison staff is taken for granted or regarded as common sense, yet the special abilities of prison staff are much more than this. Working with prisoners requires a unique combination of personal qualities and technical skills. Prison staff need personal qualities that enable them to deal with all prisoners, including the difficult and the dangerous, in an even-handed, humane and just manner. The qualities of prison personnel fall into two basic categories:

- *Capacity*: Qualities that enable personnel to fulfil the technical tasks of the prison's mandate.
- *Integrity*: Qualities that enable personnel to fulfil this mandate in accordance with the law, fundamental human rights and professional standards.

Recruiting the right people to work in prison is the essential starting point not only to prevent corruption, but also to promote a decent and humane prison system. Unfortunately, however, the status of prison staff tends to be low in many countries, and in practice, little attention may be given to their proper recruitment and training.⁵⁰

Promoting a positive image of the prison administration as a working environment

United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)

Rule 74(2)

The prison administration shall constantly seek to awaken and maintain in the minds of both of the personnel and of the public the conviction that this work is a social service of great importance, and to this end all appropriate means of informing the public shall be used.

A positive public image of the prison administration as a professional public service dealing with fundamental issues of public security, safety, rehabilitation and human rights is essential to attract recognition as well as the interest of potential prison staff recruits. The role of the prison service and the qualification criteria and values that staff members must have in carrying out this role should therefore be well defined. Particular effort should be made to attract a diverse pool of qualified candidates, including women as well as members of ethnic and racial minorities and indigenous peoples who are often

⁵⁰ See UNODC (2006), *Custodial and Non-custodial Measures: The Prison System*, Criminal Justice Assessment Toolkit, p. 35.

overrepresented in the prison population. Governments should not shy away from proactively promoting prison service as an attractive employer.

When society is left to create its own image of the prison service, it generally results in a negative perception because the press may promulgate inaccurate and negative aspects of prisons or report only when there is a scandal or bad news. However, a negative image of prisons and working in the prisons service will have a direct impact on the social standing of prison staff. This can discourage the right people from applying to jobs in the prison service, something that is particularly regretful because many functions in the prison service are highly demanding and require qualified staff with very well-developed interpersonal and other skills.

To counter such misperceptions or image problems, prison services in many countries increasingly use the Internet to successfully share information about their work with the public. In doing so, they proactively contribute to creating a positive public image.⁵¹

Example: Creating the right image in Canada

Correctional Services Canada shares this Message from the Commissioner, Don Head, to potential new recruits:

Thank you for taking a few minutes to see what the Correctional Service of Canada (CSC) has to offer. It has been said that “excellence is doing ordinary things extraordinarily well”, which is something I believe occurs within CSC every single day. In institutions and communities across the country, our dedicated employees interact with offenders, work well with our partners and support each other to meet the diverse needs of our offender population. This helps provide offenders with the skills they need to succeed in society.

We are people helping people to change lives for the better, and with each life we change we protect Canadian communities. I believe there is no greater calling.

Source: Correctional Service Canada website, <http://www.csc-scc.gc.ca/careers/003001-0001-eng.shtml>.

Transparency and fair recruitment processes

There are no universally agreed upon principles on the selection and appointment procedures of public servants, including prison officers. A starting point for principles for public servants in general may be found in the Charter for Public Service in Africa⁵² and the Ibero-American Charter for the Public Service,⁵³ which put forward regional guidelines for transparent and fair recruitment in the civil service. Depending on the

⁵¹ See, for instance, the website of the Prison Service of Trinidad and Tobago at <http://tprisons.com/2013/> or the website the prison service of Singapore at <http://www.sps.gov.sg/>.

⁵² The African Charter for Public Service in Africa was adopted at the sixteenth Ordinary Session of the Assembly of the African Union in Addis Ababa, Ethiopia, on the 31st January 2011. Available at <http://www.dpsa.gov.za/dpsa2g/documents/apsd/APSd%20CHARTER%202012.pdf>.

⁵³ The Ibero-American Charter for the Public Service was adopted at the fifth Ibero-American Conference of Ministers for Public Administration and State Reform, held in Santa Cruz de la Sierra, Bolivia, on 26 and on 27 June 2003 as part of the thirteenth Ibero-American Summit. Available at <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan012368.pdf>.

system⁵⁴ and on the individual position(s), a common call for applications or an individual job vacancy announcement may be used to attract applicants. However, no matter which system is used, good practice requires the procedures to be transparent and the appointments merit-based, consistent with the requirements set out in article 7 (1) of the United Nations Convention against Corruption.

Examples: Towards transparency and fairness in recruitment

The Ibero-American Charter for the Public Service

The Ibero-American Charter for the Public Service highlights various steps that should be followed to ensure a fair and transparent recruitment process of civil servants. They include:

- Publication of the vacancy ensuring that it is widely accessible for a wide range of potential applicants.
- Determination of standard criteria for the evaluation of applicants based on the job description.
- Clear definition of processes for the various steps of the recruitment process. This may include, for instance, the screening of applications; establishment of a short-list; (written) tests; the selection of candidates for interviews; organization of interviews; and, finally, the selection of the successful applicant.
- Competence of evaluators in assessing the competencies of the candidates (evaluators need both a knowledge of the substantive work and an ability to apply the relevant human resources rules to the selection process).

Source: <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan012368.pdf>.

GRECO

The Secretariat of the Group of States against Corruption (GRECO), a body established in 1999 within the framework of the Council of Europe to monitor State compliance with the Council of Europe's anti-corruption standards through a dynamic process of mutual evaluation and peer pressure, has identified the following major needs in its review of civil service recruitment procedures of States parties that covered the period from 2000-2010:

- (a) Strengthening the supervision of the selection process, particularly as regards the objectiveness of procedures and the independence of selection boards.
- (b) Checking applicants' record of convictions and any professional disqualifications.
- (c) The use of tests of ethics or integrity, in particular in vulnerable sectors of the public service.

Source: <http://www.coe.int/en/web/greco/about-greco>.

⁵⁴ Career-based systems generally recruit individuals according to the level of functions to be performed (execution, mid-level, senior) and/or to the area of specialization (law enforcement, social security, hospital administration, etc.). They often include a probation period and then put people on permanent public contracts within an organized career system. Job-based systems recruit individuals for specific positions upon the publication of a vacancy. The two systems may coexist in a country depending on the function or sector.

Examples: Towards transparency and fairness in recruitment (continued)*The United Kingdom's Civil Servants Commission*

One example of how recruitment in the public sector can be supervised by a dedicated body is the independent Civil Service Commission of the United Kingdom. The Commission is responsible for ensuring a transparent and competitive recruitment of civil servants by departments and public bodies.

The Civil Service Commission regulates recruitment to the civil service, providing assurance that appointments are on merit after fair and open competition. It also helps promote the civil service values of honesty, integrity, objectivity and impartiality and hears complaints under the Civil Service Code. Any complaints against recruitment decisions must be raised first with the department concerned before they are filed with the Civil Service Commission.

Source: <http://civilservicecommission.independent.gov.uk/>.

Applied to prison staff, this means that recruitment and selection procedures should be public, explicit, clear, scrupulously fair and non-discriminatory; be based on the knowledge, skills and abilities of applicants; and ensure that only persons with the right qualities are selected to work in prisons. This also renders indispensable the need to test the integrity of the applicants and how they are likely to respond in the kinds of difficult situations they may face in the course of their daily work. Next to testing other matters such as educational standards, physical abilities and the potential to learn new skills, this part of the recruitment and selection procedure is essential, as it covers qualities that are a core requirement for work in prisons.

Qualifications and competency tests

Setting appropriate educational qualifications for prison staff is crucial. While these will differ according to the national context, it is important to set sufficient standards for literacy, numeracy, intellectual capacity, personal aptitude and physical fitness to assure that the recruits will be capable of fulfilling their designated tasks as prison officers.

Entry requirements for prison system applicants, such as competency tests or interviews, vary among different countries. In the United Kingdom, for example, the only requirements are a minimum age, citizenship or resident permit, and background and security checks. In Canada, candidates are also required to have a secondary school diploma or approved equivalent; some proven experience in direct interaction with individuals in an education, work or volunteer environment; and a valid Standard First Aid and a cardiopulmonary resuscitation certificate.

Various methods can be used to test potential recruits, including assessment centres, role plays, testing reactions to scenarios and written tests. Where such methods are not feasible, in-depth interviews using structured questioning should be used to test the views and suitability of potential recruits. Whatever approach is deployed, it should be evidence-based, assessed against objective criteria and undertaken by experienced prison staff. Those staff should be trained to conduct assessments in order to ensure that their own unconscious biases do not distort the assessment. It is also good practice to include independent assessors who are able to provide a different perspective on candidates. Some jurisdictions also involve psychologists in the assessment process, particularly where technical instruments (for example, psychometric tests) are involved.

Example: Germany

Any applicant who would like to become prison officer in the German federal state of North-Rhine Westphalia must first successfully undergo a two-day assessment of his or her aptitude for working in the prison system.

On the first day, the written assessment takes place. It consists of a dictation, an essay to be written within 45 minutes (for example, about a film that is shown during the test or on a recent news article in the press), an intelligence and logic test, and a multiple-choice psychological evaluation.

Those who pass the assessment on the first day are admitted to the assessment on the second day, which consists of an individual psychological interview in which the applicant has to discuss his or her motivation for the job and curriculum vitae. This is followed by a group discussion with other applicants. The selection committee observes these discussions and assesses which applicants make a favourable impression by, for example, getting their points across effectively while respecting the other participants.

After successfully passing the tests on both days, applicants will be invited to a final interview by the selection committee, which then chooses the best candidates. Those selected will be invited to enter the training for prospective prison service officers, which lasts about two years.

In Germany, there are usually many applicants for open positions in the prison service and recruitment is competitive, not least because a prison officer position offers high job security. Fewer than 10 per cent of applicants pass the assessment and are offered a position in the training programme.

Sources: <http://www.justiz-einstellungstest.de/auswahlverfahren-eignungstest/> (in German); *Die Zeit* <http://www.zeit.de/2015/43/gefaengnis-justizvollzugsanstalt-ausbildung-mecklenburg-vorpommern/komplettansicht> (in German); *Berliner Zeitung* <http://www.berliner-zeitung.de/viele-wollen-im-gefaengnis-arbeiten---aber-die-meistern-scheitern-an-der-aufnahmepruefung-mangelnde-intelligenz-15077736>.

Another assessment method includes psychometric tests, which are increasingly used as a tool in recruitment, including for prison staff. With a basis in educational psychology, psychometric tests are normally devised by occupational psychologists in order to provide employers with a reliable method of selecting the most suitable applicants as well as to identify candidates among existing staff for further development and promotion. Such tests measure intelligence, aptitude, personality and similar attributes that can provide prison management with an insight into how well individuals might relate to prisoners and fellow officers and, in particular, how they handle stress.

Where psychometric or other psychological tests are used in the context of selecting staff to serve in prisons, it is useful, from an anti-corruption perspective, to include questions related to integrity and accountability. The answers could help determine whether recruits are compatible with the role of a prison officer and at the same time give an indication of whether or not they are susceptible to corrupt practices.

Vetting of prison staff

Vetting can be defined as “assessing integrity to determine suitability for public employment.”⁵⁵ Vetting can be used to mitigate a range of different risks, such as security risks

⁵⁵ See OHCHR, *Rule-of-Law Tools for Post-Conflict States: Vetting: An Operational Framework*. Available at <http://www.ohchr.org/Documents/Publications/RuleoflawVettingen.pdf>.

or the risk that an employee will engage in problematic conduct or even human rights violations. For the prevention of corruption, the use of vetting measures and background checks aims to filter out those who have committed a corruption offence or seem susceptible to corruption and/or other criminal conduct. Police and criminal record checks are normal starting points for any vetting procedure. In fact, most countries have different laws and policies in place regarding the employment of staff with existing criminal records.⁵⁶

The United Nations Convention against Corruption, in its article 30 (7) asks States to consider procedures that temporarily or permanently disqualify a person convicted of a corruption offence from holding public office or holding office in a public enterprise. The Convention against Corruption leaves the duration of the disqualification period to the discretion of the States parties so that it can be consistent with their domestic law and the importance accorded to the gravity of the offence for which the person was convicted.

As a general rule, prison services will not allow anyone with a criminal record to work in the prison service because a criminal past will be at odds with the obligation of a prison officer to uphold the highest standards of justice and credibility. However, some examples exist where ex-offenders, after years with a good record, are employed as probation officers or are engaged by civil society organizations to work with prisoners outside the public service.⁵⁷

Very often, and due to limited resources, background checks focus on verifying the absence of negative information (such as no criminal records or negative financial background/credit information) rather than gathering positive information that underlines the applicant's good moral standing and qualifications. However, many prison services require character references.

For positions in high-security prisons or positions at particular risk of corruption, further preventive tools may be used, including, for instance:

- Home visits
- Checks of personal background, including whether there are any potentially problematic family ties
- Drug and alcohol tests
- Monitoring of personal lifestyles (personal finances checking)
- Random or targeted inspection of employee's workplaces and vehicles
- The use of polygraph tests

It should be borne in mind that the vetting process itself can be corrupted. Important information may be removed from a personnel file or deliberately ignored in a recruitment or promotion process. Furthermore, associates of known criminals who do not have any previous criminal record themselves may seek employment in a prison service for nefarious purposes. Corruption risk assessments and mitigating measures should look into these possible scenarios.

Safeguard measures can be taken to ensure that all relevant information reaches those who need it. Such measures include, for instance, restricting access to relevant databanks to only

⁵⁶ See UNODC (2017), *State of Implementation of the United Nations Convention against Corruption* Available at https://www.unodc.org/unodc/en/corruption/tools_and_publications/state_of_uncac_implementation.html

⁵⁷ See, for instance, "In Freedom, Ex-Felon Becomes Probation Counsellor;" the story of a former offender in the State of Missouri, United States, who has been employed as probation officer. Available at <http://www.npr.org/2012/12/11/166884441/in-freedom-ex-felon-becomes-probation-counselor>.

those who strictly need it; the “four-eye principle” of requiring a witness when important documents are signed or transferred; and the use of prison intelligence information to verify and corroborate information received in the recruitment/promotion process.

If a prison is based in a local community, staff may often find themselves working alongside relatives by virtue of having been drawn from the same local employment pool. This situation may create conflicts of interest and may ultimately also foster corruption, as strong peer pressure among related prison officers may arise. Vetting should therefore also take into account the danger of individuals being recruited on the basis of known connections: They may not be the best qualified candidates, and once employed, their special relationship to fellow prison staff may render them particularly vulnerable to corruption. Open and transparent recruitment procedures as described above help ensure that recruitment is based not on family ties but on merit.

Vetting of external staff

External staff can present a particular challenge. Their recruitment, vetting and selection are not under the aegis of the prison system. However, such individuals can have as much contact with prisoners as regular staff. Often, those responsible for managing external staff are based primarily outside the prison.

Prison staff should work closely with the employers of external staff to establish the levels of vetting and subsequent training of these individuals and to ensure that appropriate standards are set.

For staff on secondment, specific agreements should be developed to ensure that seconded staff are vetted and selected in a suitable manner. Similarly, for contracted service providers, the tender procedure and contract agreements should include relevant provisions obliging the service providers to exert adequate control over the selection and, where relevant, vetting of external prison staff.

Example: Security vetting processes and procedures of external drug workers in prisons in the United Kingdom

The government of the United Kingdom is committed to encouraging greater voluntary sector involvement in providing services to the public sector. It considers these partnership arrangements to be important and has made security vetting processes and procedures for external staff working in prisons simpler and better understood.

In this context, United Kingdom Prison Service Order 3625 (on Vetting and Testing of Specialist External Drug Workers) sets out the parameters within which substance abuse workers, including mutual aid service representatives, will be approved to work in prisons.

The order clarifies that high-security prisons will usually not admit someone who has:

- Received a custodial sentence
- A conviction for any offence within the past five years (excluding most motoring offences unless causing injury or death)
- A conviction for any serious offence involving drugs (e.g. importation, possession with intent to supply, cultivation)
- A conviction for any serious sexual or violent offence
- A conviction for any offence involving children

Example: Security vetting processes and procedures of external drug workers in prisons in the United Kingdom (continued)

Prisons that are not classified as high-security facilities will usually not admit someone who has:

- A conviction for importing or supplying drugs
- A conviction for any offence in the last five years (excluding most motoring offences unless causing injury or death)
- Been released from a custodial sentence in the last five years
- A conviction for a sexual offence (e.g. rape, indecent assault)
- A conviction for any offence involving children

Source: <http://www.insidetime.org/prison-rules-and-regulations/>.

Integrity testing

To assess the integrity of public officials, several countries use integrity testing, defined as “a tool by which public officials are deliberately placed in potentially compromising positions without their knowledge, and tested, so that their resulting actions can be scrutinized and evaluated by the relevant authorities”.⁵⁸

Such tests can be carried out in form of random checks or targeted at a specific officer upon suspicion of corruption.⁵⁹ The tests are primarily operated by law enforcement agencies and are relatively unknown in prison settings. The knowledge among staff that they may be subject to integrity testing can act as a major deterrent in itself.

Integrity testing targeted for a specific individual will usually emanate from specific intelligence or a complaint. It may be considered necessary when there are founded suspicions and allegations of misconduct in the absence of specific evidence. Random integrity testing involves simulations that are not targeted at any one individual. If carried out correctly, all staff should have a statistically equal chance of being tested over a period of years.

Although potentially valuable, integrity testing is controversial and problematic as a method for gathering information because it often involves entrapment as well as provocation and deception. In many countries, special legislation allowing for the use of integrity testing would be required along with special legislation allowing for the use of any information obtained from the test as evidence in court.

Furthermore, the long-term success of integrity testing as a deterrent would depend on the establishment of wider integrity systems and a strong ethics culture to prevent misconduct, including acts of corruption.

In any context, integrity testing is a highly skilled and complex task to be carried out only by trained individuals under strict managerial oversight and according to prescribed processes. It may be regarded as a tactic at the extreme end of the spectrum, only required as a last resort when a specific threat is identified.

⁵⁸ OECD, *Managing Conflict of Interest in the Public Sector: A Toolkit* (2005), p. 68.

⁵⁹ See, for instance, Centre for the Study of Democracy, *Study on Anti-Corruption Measures in EU Border Control* (Sofia, Bulgaria, 2012), p. 107.

Example: Integrity testing in the United Kingdom

In an annex to Prison Service Order 1215, Her Majesty's Prison Service in the United Kingdom sets out the procedures and requirements for carrying out integrity testing. The relevant provisions state:

A decision to carry out an integrity test must be taken by the person to whom the designated manager reports for the purpose of the case under this Prison Service Order—i.e. the Governing Governor, Controller, Director of privately run prison, Area Manager or Head of Group or Unit.

When a decision to carry out an integrity test is made the name of the authorising officer and the date must be recorded on the intelligence record. The reason for the decision to carry out a test, and reasons why other action, such as a formal investigation ... or a simple enquiry, is considered inappropriate, must also be recorded.

It is essential that the arrangements for integrity testing meet obligations under the Human Rights Act and the Regulation of Investigatory Powers Act. Designated managers and Governing Governors, Controllers, Directors of privately run prisons, Area Managers and Heads of Groups and Units must take advice from the Professional Standards Unit before engaging in integrity testing for the first time. The Professional Standards Unit will be able to offer advice on the methods which can be adopted for integrity testing and their legality. Good practice from sources within the Service and from outside agencies will be collated and available for dissemination, thus helping us to avoid the pitfalls such as "entrapment," which can render evidence obtained inadmissible.

Following a test, the case must be reviewed by the authorising officer and the designated manager. The outcome of the integrity test must be recorded in the intelligence record. In many cases where the subject fails the test there will immediately be sufficient evidence for a formal disciplinary investigation to be initiated. This must be proceeded with in accordance with PSO 1300 (the relevant Prison Service order). A statement on the integrity test may be needed for the disciplinary process.

In cases where the subject passes the test the intelligence assessment must be reconsidered and a new decision made on whether there is cause to continue with the case. There is no bar to further integrity tests being carried out but justification must be established and the test must still be necessary and proportionate.

Designated managers must report cases of the use of integrity testing and the outcome of action ... to enable good practice and problems to be collated and shared. This can be done without divulging any details/names that should not be disclosed.

Source: PSO 1215. [http://www.insidetime.org/download/rules_&_policies/pso_\(prison_service_orders\)/PSO_1215_professional_standards_preventing_and_handling_staff_wrongdoing.pdf](http://www.insidetime.org/download/rules_&_policies/pso_(prison_service_orders)/PSO_1215_professional_standards_preventing_and_handling_staff_wrongdoing.pdf).

Drug and alcohol testing

Random drug and alcohol tests can be considered a special form of integrity testing. Such tests may be relevant in an anti-corruption context because prison staff with a substance abuse problem are often ready victims of conditioning and manipulation, should their problem be discovered by prisoners or other staff members. Having systems in place to detect substance dependency among staff may therefore generally help prevent corruption.

A viable alternative to detecting staff substance abuse through targeted or random testing is the establishment of strong and effective staff support systems. Such systems encourage

staff members who already have, or are at risk of developing, drug, alcohol or gambling addictions to come forward as early as possible and to receive treatment and counselling rather than hiding their problems and risking disciplinary or even criminal action.

In fact, this approach may be preferable, not least because it provides support instead of punishment, offers a longer-term solution, and is less prone to be subject of corruption itself. Where random drug and alcohol testing exists, those who fear the detection of their problem may have a strong incentive to use corrupt means to ensure that they are not caught. They may also use corrupt means to find out when the unannounced tests will take place or seek to eliminate a positive test result from going on record before it results in any negative consequences for them.

4.2. Remuneration, benefits and incentive awards programmes

The expectations regarding the qualifications and performance of a prison officer in what typically is a demanding and often stressful environment are not always commensurate with their salary levels. In many countries, salaries of prison officers are low compared to other criminal justice professionals, including the police. It is obvious that inadequately low salaries, irregular or heavily delayed payments, and lack of uniforms or equipment to carry out basic security duties discourage staff from upholding high levels of integrity.⁶⁰

Any prison reform efforts that aim to enhance the professionalism of prison staff and an administration's personnel structure should therefore also consider appropriate budgetary adjustments to provide adequate salaries in line with prison officers' responsibilities, functions and grades. Due consideration should also be given to creating adequate overall working conditions for prison staff, including safety and security, staff accommodation, staff support systems, equipment and uniforms.

The above notwithstanding, the degree to which higher salaries have an impact on the level of corruption is a complex issue, and research remains inconclusive on the magnitude of its impact. Some case studies have shown a decrease in the level of corruption in the public sector as a result of increased salary wages.⁶¹ Conversely, other empirical studies have concluded that in the examined settings, the level of wages did not have a significant impact on the level of corruption.⁶² In any case, it is plausible to argue that salaries that are too low can be a contributing factor to corruption. Prison officers are less likely to commit serious dishonourable acts such as bribery and embezzlement to generate illicit sources of income when they receive adequate remuneration and benefits, such as health or life insurance or a

⁶⁰ See, for instance, United Nations, *Prison Incident Management Handbook* (2013), p. 73.

⁶¹ Former Peruvian President Fujimori implemented a dramatic tax reform that increased the monthly salaries within the Peruvian tax collection agency from US\$50 to US\$890 and offered early retirement to individuals who declined to be subject to strict anti-corruption oversight. It was documented that tax revenues increased from 5 per cent to 14 per cent of GDP in two years. See R. Hanna and others, *The Effectiveness of Anti-Corruption Policy: What Has Worked, What Hasn't, and What We Don't Know—A Systematic Review* (EPPI-Centre, Social Science Research Unit, Institute of Education, University of London, 2011), p. 14. Available at https://assets.publishing.service.gov.uk/media/57a08ab8e5274a27b2000719/Anti_corruption_2011Hanna.pdf.

⁶² William D. Savedoff, "Pay for Honesty? Lessons on Wages and Corruption from Public Hospital," U4 Brief (2008). Available at <https://www.cmi.no/publications/3032-pay-for-honesty-lessons-on-wages-and-corruption>. These two studies were based on data from 35 and 28 countries, respectively. A publication of the U4 Anti-Corruption Resource Centre on lessons on wages and corruption in public hospitals used different studies, including one on 33 hospitals in Buenos Aires. Differences in salaries of purchase managers of public hospitals did not correlate with lower levels of corruption in the context of the procurement of medical supplies. Broad variation in the cost of medical supplies between hospitals was seen as a solid indication of corruption. Researchers interpreted this high prevalence of corruption to a feeling of impunity since no purchase manager had ever been investigated, disciplined or fired during the period of the study, which also showed the large price deviations from market prices. A follow-up study monitored the introduction of stronger internal control mechanisms (monitoring and auditing) which resulted in a reduction of the prevalence of corruption.

retirement plan. Sufficient compensation allows prison officers to focus on their work rather than having to worry about how to provide for themselves and their families.

Moreover, the higher their wages, the more prison officers feel they have to lose by committing an act of corruption. Still, “[t]he disparity in earning potential between smuggling and a correction officer’s salary can make corruption seem like an appealing option.”⁶³

Example: Report on corruption in American prisons

A September 2016 report on prison corruption by the Center for Advancement of Public Integrity of Columbia Law School found the following:

There is much debate over whether prison corruption is primarily the product of individual opportunism or systemic failures. Experts find that poor pay and low hiring standards in America’s prisons have made guards particularly susceptible to corruption. ...

Correction officers largely agree that corruption is primarily caused by a desire for money, and further fuelled by the promise of increasing payoffs.

Correction officers working in the United States in 2011 earned an average annual salary of \$43,550, nearly 14% below the national median household income, the US Bureau of Labor Statistics reported. However, last year, DOI [Department of the Investigation] found that correction officers at Rikers [Island] could earn from \$400 to \$900 a day smuggling drugs and other contraband into the prison complex. A California prison guard attested to earning more than \$150,000 in one year by smuggling cell phones. The disparity in earning potential between smuggling and a correction officer’s salary can make corruption seem like an appealing option.

Source: http://www.law.columbia.edu/sites/default/files/microsites/public-integrity/files/prison_corruption_-_capi_community_contribution_-_september_2016.pdf.

As can be seen from the example in the above text box, sometimes even adequate wages will not be able to match the profit that can be gained from corruption. Therefore it should be stressed that the establishment of an adequate compensation and incentives system to prevent ethical violations and disciplinary infractions is likely to fail if it is not coupled with other preventive measures and, in particular, strong and effective accountability and disciplinary mechanisms (see chapter 5).

In fact, even in settings where bribery or embezzlement by prison officers is uncommon, there are clear advantages to granting them adequate remuneration. Doing so will contribute to raising staff morale and overall job satisfaction, leading to a more productive work atmosphere and a willingness to proactively strive towards maintaining the high standards of conduct required in a prison setting.

In terms of pay administration, computerized management of the payrolls of civil servants, including of prison officers, has been shown to reduce levels of corruption. In particular, an emphasis should be placed on ensuring correspondence between the payroll lists, the actual list of public employees in departments/public bodies as recorded in the computerized personal information system, and the personnel files of public employees.⁶⁴ Policies aimed at eliminating “ghost employees”—people who don’t actually work

⁶³ Center for the Advancement of Public Integrity, *Prison Corruption: The Problem and Some Potential Solutions* (Columbia Law School, New York, 2016), p. 2.

⁶⁴ International Council on Archives with International Records Management Trust, *Managing Personnel Records* (London, 1999).

at the prison but are nonetheless on the prison service payroll—have generally relied on conducting a civil service census to determine the number and type of government workers. This kind of census is a necessary step in setting up a computerized payroll system for civil servants.⁶⁵

In many countries, there is a trend towards making remuneration scales in the public service publicly available. Any publication of salary scales should include all the elements of remuneration including health insurance, pension benefits and other allowances. Policies and rules on the granting of allowances and bonuses should be easily accessible to civil servants and the general public.

4.3. Codes of conduct

United Nations Convention against Corruption

Article 8. Codes of conduct for public officials

1. In order to fight corruption, each State Party shall promote, inter alia, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system.
2. In particular, each State Party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.
3. For the purposes of implementing the provisions of this article, each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, take note of the relevant initiatives of regional, interregional and multilateral organizations, such as the International Code of Conduct for Public Officials contained in the annex to General Assembly resolution 51/59 of 12 December 1996.
...
6. Each State shall consider taking, in accordance with the fundamental principles of its domestic law, disciplinary or other measures against public officials who violate the codes or standards established in accordance with this article.

United Nations Standard Minimum Rules for the Treatment of Prisons (the Nelson Mandela Rules)

Rule 77

All prison staff shall at all times so conduct themselves and perform their duties as to influence the prisoners for good by their example and to command their respect.

The adoption of a code of conduct or code of ethics is commonly used to guide staff behaviour. It is a crucial aspect of any effective approach to strengthening integrity and often complements applicable legislation aimed at regulating the public service. Even though prison officers would normally be bound by a general code of conduct for public officials, a specific code which is formulated, applied and enforced for staff of a designated institution or sector may increase its relevance, legitimacy, and effectiveness. Therefore, in numerous States, codes of conduct exist for specific categories of public officials such as judges, prosecutors, police officers and prison staff.⁶⁶

⁶⁵ BMB Mott Mc Donald, *Best Practices in Civil Service Reform* (March 2008), p. 81.

⁶⁶ Commission on Crime Prevention and Criminal Justice, *Report of the Secretary-General on the Implementation of the International Code of Conduct for Public Officials*, E/CN.15/2002/6/Add.1 (12 February 2002), para. 16. Many additional States have developed specific codes of conduct since this 2002 report.

These codes or equivalent regulations establish clearly what is expected of the individual public official, thus “helping to instil fundamental standards of behaviour that curb corruption”.⁶⁷ Public service regulations, codes of conduct and specific institutional instructions should, for instance, clarify how an official should respond to being offered a gift (for example, whether there is “no gift policy,” a nominal threshold value, or an obligation to register all gifts in an official gift registry).

The code of conduct protects public officials who comply with it and conversely warns of the consequences of failing to act ethically, thus providing the basis for disciplinary action. The code of conduct should make reference to relevant laws and regulations (see case example below). However, a code of conduct for prison officers will do little to improve performance, integrity and accountability if it is not enforceable. Therefore, mechanisms should be established to receive, inquire into and resolve allegations and complaints of unethical conduct by prison officers. Codes of conduct that are not linked to clearly defined and enforceable disciplinary procedures to deal with cases of misconduct risk remaining merely aspirational or even elusive (see chapter 5).

The Council of Europe’s European Code of Ethics for Prison Staff

In 2012, the Council of Europe Committee of Ministers to Member States adopted the Recommendation CM/Rec [2012]5 on a model European Code of Ethics for Prison Staff. This model code provides a resource and guidance for creating a specific code of conduct for prison officers.

Source: <http://www.refworld.org/docid/50697fe32.html>

Example: A dedicated code of ethics for prison officers in Panama

The General Directorate for the Prison System of Panama adopted in 2013 a new Code of Ethics for Prison Officers of the Republic of Panama. The Code, which used the European Code of Ethics for Prison Staff as main reference, includes 38 provisions clustered under the headings of accountability, integrity, respect and protection of human dignity, care and assistance, cooperation, and confidentiality and data protection. In particular, the section on integrity includes regulations to “oppose all forms of corruption within the prison administration,” avoidance of conflicts of interest and the obligation to report alleged corruption or serious infringements of the law. An explanation of the Code of Ethics and the disciplinary system are included in the induction training of new recruits.

Under “Accountability,” for example, the Panamanian Code of Ethics specifies that:

4. Prison officers at all levels shall be personally responsible for, and assume the consequences of, their own actions, omissions or orders to subordinates; they shall always verify beforehand the lawfulness of their intended actions.
5. Any prison officer who commits an administrative offense by breach of the provisions under this code, the provisions of Act 9 of 1994 and/or the provisions of the rules of the internal procedure for the institutions of the public sector will be disciplinary sanctioned, depending on the failure, to verbal reprimand, written reprimand, suspension and dismissal.

⁶⁷ UNODC (2009), *Technical Guide to the United Nations Convention against Corruption*, p. 19.

Example: A dedicated code of ethics for prison officers in Panama (continued)

6. The faults shall be classified by severity as minor, serious and most serious, in accordance with current legislation of the Republic of Panama.

It also asks prison officers who are aware of a current or impending violation of the code to report the matter to their superior or other appropriate authorities.

Source: <http://www.academiaanticorruccion.org/index.php/es/publicaciones?format=raw&task=download&fid=6>

Again, the question arises of how to treat external staff who are not technically civil servants employed by the prison service but who nevertheless carry out services within the prison setting, such as physicians, teachers, contractors and other service providers.

As far as possible, and as applicable to the particular work relationship, codes of conduct for prison officers should also apply to external staff. Ideally, this problem should be explicitly addressed within the code of conduct so that it is clear and transparent to everyone working in a prison setting what codes of conduct they should adhere to. For an example on how this can be done, see the text boxes below.

Example: Conduct for external staff engaged inside prisons in Italy

The application of the Ethics Code for Penitentiary Police Staff in Italy (legislative decree number 449 of 30 October 1992) is extended to other professionals working inside prisons, such as teachers, probation officers, or providers of goods and services. More specifically, the Code provides that:

Public Agencies ... shall extend, insofar as they are compatible, the obligations of behaviour of this code to all the collaborators or consultants, under any type of contract and under any reason for their cooperation, to the heads of bodies and persons in charge of any task in the offices of direct collaboration of political bodies, as well as to any collaborator of enterprises which provide goods and services and which carry out works for the public service. To that purpose, in the contracts of cooperation, of assignment of tasks, or of request of advice, the administration shall include specific provisions or clauses of cancellation or termination of the contract in case of infringement of the duties established by this Code.

Source: https://www.polpenuil.it/Legislatura/Testi/Decreti_Legislativi/449.pdf.

Example: Conduct of other persons working inside prisons in France

France has a specific Code of Conduct for prison officers: le “Code de Deontologie du Service Public Penitentiare”—legislative decree Nr. 2010-1711 of 30 December 2010, amended on Articles 20 and 31 by the legislative decree Nr. 2016-155 of 15 February 2016. As in the example of Italy above, the code also includes provisions regulating the conduct of external staff, including provisions for every legal person or legal entity involved in the prison environment as services providers.

Source: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000023333257&categorieLien=id>.

It is important to emphasize that a code of conduct is different from a merely aspirational declaration of an organization's intent, vision or mission.⁶⁸ Vision or mission statements are important as they can have a motivating effect and instil a common sense of purpose. However, they do not replace a code of conduct, which gives clear guidance on what kind of ethical behaviour is expected from prison staff in different situations.

At the same time, it should be borne in mind that prisons tend to be heavily regulated working environments that are typically governed not only by the national prison act or law, but—subject to the national context—also by prison regulations and/or standard operating procedures. In many countries, this secondary legislation will already regulate, in significant detail, different areas of prison management (such as visits, searches, etc.) and articulate expectations regarding staff conduct.

When developing a code of conduct for prison staff, it should be harmonized with other pieces of the national regulatory framework governing prisons and the behaviour of prison staff. The key objective is to guide the conduct of prison staff and to avoid contradictions and confusion. Accordingly, the code of conduct should be tailored to the specific tasks of prison officers and key terminology and concepts should be aligned with language contained in other relevant regulations to ensure consistency and coherence.

The question of whether and how breaches of the code of conduct will relate to the general disciplinary regime applicable to prison staff varies between different countries. In some countries, such as Estonia,⁶⁹ breaches of the code of conduct for prison staff are dealt with by an advisory body (Ethics Committee), the decisions of which are not binding upon the official who imposes actual disciplinary sanctions. In other jurisdictions, such as Panama (referred to above), breaches of the code of conduct will be sanctioned as disciplinary infractions or offences.

4.4. Training, including on integrity and accountability

United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)

Rule 75

2. Before entering on duty, all prison staff shall be provided with training tailored to their general and specific duties, which shall be reflective of contemporary evidence-based best practice in penal sciences. Only those candidates who successfully pass theoretical and practical tests at the end of such training shall be allowed to enter the prison service.

3. The prison administration shall ensure the continuous provision of in service training courses with a view to maintaining and improving the knowledge and professional capacity of its personnel, after entering on duty and during their career.

⁶⁸ The only correctional facility in Malta, for instance, has the motto *Suavis Aspero* (Firm but Gentle) and the principal goals of keeping prisoners in custody; maintaining order, control, discipline and a safe environment; providing decent conditions for prisoners and meeting their needs, including health needs; providing positive regimes which help prisoners address their offending behaviour; and helping prisoners prepare for their return to the community as responsible citizens. See <http://homeaffairs.gov.mt/en/MHAS-Departments/Corradino-Correctional-Facility/Pages/CCF.aspx>.

⁶⁹ See the Estonia Justiitsministeerium's *Prison Official's Code of Ethics* (2011), provision 8.6. Available at <http://www.vangla.ee/en/career-and-jobs/prison-officials-code-ethics>.

**United Nations Standard Minimum Rules for the Treatment of Prisoners
(the Nelson Mandela Rules) (continued)**

Rule 76

1. Training referred to in paragraph 2 of rule 75 shall include, at a minimum, training on:
 - (a) Relevant national legislation, regulations and policies, as well as applicable international and regional instruments, the provisions of which must guide the work and interactions of prison staff with inmates;
 - (b) Rights and duties of prison staff in the exercise of their functions, including respecting the human dignity of all prisoners and the prohibition of certain conduct, in particular torture and other cruel, inhuman or degrading treatment or punishment;
 - (c) Security and safety, including the concept of dynamic security, the use of force and instruments of restraint, and the management of violent offenders, with due consideration of preventive and defusing techniques, such as negotiation and mediation;
 - (d) First aid, the psychosocial needs of prisoners and the corresponding dynamics in prison settings, as well as social care and assistance, including early detection of mental health issues.
2. Prison staff who are in charge of working with certain categories of prisoners, or who are assigned other specialized functions, shall receive training that has a corresponding focus.

Once prison staff have been properly selected and recruited, they need to be given appropriate initial training prior to being deployed in a prison (pre-service training). Most new staff will have little or no experience or knowledge of the prison world. The first requirement is to reinforce for all of them an appreciation of human rights and the ethical context within which prisons must be administered. This is also highly relevant from an anti-corruption perspective, as such training should include a dedicated focus on integrity and accountability. Indeed, the necessity of designing and offering specific training modules for categories of staff particularly exposed to corruption is underlined in article 7(1)(d) of the United Nations Convention against Corruption (see above) and has also been acknowledged in major international publications covering areas such as law enforcement or public procurement.

The Nelson Mandela Rules provide a detailed list of the content that induction training for prison staff should encompass, including relevant national legislation, regulations and policies as well as the rights and duties of prison staff in the exercise of their functions, including the duty to respect the human dignity of all prisoners and the prohibition of certain conduct (see above). In practice, however, the standard and length of tailored training given to new recruits varies enormously from country to country. In some jurisdictions, front line staff undertake up to two years of training before beginning work as qualified prison staff.⁷⁰ In others, prison systems require new staff to complete a mixture of classroom and practical training. Even if this level of training is not feasible, all new prison staff should, at a minimum, be given a clear set of guidelines about what their work involves and sufficient technical knowledge to carry out their basic work before they enter a prison.

⁷⁰ In Norway, for example, training of prison officers became accredited as a university college education in 2012. The University College of Norwegian Correctional Service (KRUS) is responsible for all education of new recruits, senior officers and probation officers as well as research. See <http://www.krus.no/home.286892.en.html>.

As prisons are dynamic institutions that continuously change and are influenced by expanding knowledge and external influences, staff need to be given regular opportunities to bring their knowledge up to date and sharpen their skills. Training and development must not only be done at the beginning of a prison officer's career. Continued training should seek to enable staff to achieve continuous improvement and thereby promote increased professionalism. It should also take into account the need to retrain personnel when new legislation, policies and procedures are implemented that may affect the performance of their own responsibilities. There should be a regular series of opportunities for continuing development for staff of all ages and ranks.

Finally, the Nelson Mandela Rules are clear in requiring specific training for prison staff dealing with certain categories of prisoners. Subject to the national context, these categories may include women prisoners, prisoners with special needs and high-risk prisoners, including violent extremist prisoners.

For further detail on the management of different categories of prisoners, including corresponding prison staff training, see the UNODC Handbook on Prisoners with Special Needs,⁷¹ the UNODC Handbook on the Management of High-Risk Prisoners,⁷² and the UNODC Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons.⁷³

Integrity and accountability training for prison staff

To provide tailored training to prison staff, many countries have established dedicated training institutes for prison officers or specific courses carried out for prison officers by law enforcement training institutes. Several of these dedicated prison service training institutes have started to integrate anti-corruption modules into their respective curricula.

Given the significant risk of corruption to which prison staff are exposed (see Part I), the subjects of integrity and accountability should be addressed in all prison staff training. Relevant messages and content can either be integrated into existing curricula and/or be taught and reinforced in the form of specific modules. The training should be tailored to the applicable criminal and administrative laws, regulations and standard operating procedures in the country, including the code of conduct, where applicable, and cover at least the following topics: conflicts of interest; available channels for the reporting of alleged misconduct; and disciplinary procedures (on the latter topics, see also chapter 5). Using concrete case examples based on actual cases of prison officers charged in court for corruption or similar offences in training modules has proven to be particularly useful because it offers the possibility that trainees can analyse the risks and discuss strategies to reduce them in a realistic way.

Further, specialized training should be considered for managers (for example, on their supervisory responsibility, the use of prison intelligence, human resources management, etc.), for staff in specific areas at high risk for corruption (such as contract and procurement departments) as well as for staff with specific anti-corruption related duties. A 2016 prison service instruction in the United Kingdom, for example, requires prisons to appoint local corruption prevention managers (without additional staffing requirements). The same

⁷¹ UNODC (2009), *Handbook on Prisoners with Special Needs*. Available at http://www.unodc.org/pdf/criminal_justice/Handbook_on_Prisoners_with_Special_Needs.pdf.

⁷² See UNODC (2015), *Handbook on the Management of High-Risk Prisoners*. Available at https://www.unodc.org/documents/justice-and-prison-reform/HB_on_High_Risk_Prisoners_Ebook_appr.pdf.

⁷³ See UNODC (2016), *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*. Available at http://www.unodc.org/pdf/criminal_justice/Handbook_on_VEPs.pdf.

instruction also establishes that these managers have a mandatory requirement to attend a three-day national training course within six months of taking up the post.⁷⁴

A specific feature of prison life that needs to be highlighted in staff training is that prisoners may endeavour to manipulate and condition prison staff. If prison staff are ill-prepared to deal with such attempts in a professional manner, it may easily lead to situations of prison staff engaging in corrupt conduct. Psychological manipulation can take many forms, from distraction to exploitation of relationships and conditioning. Obvious violations include having a personal relationship with a prisoner, trafficking goods, disclosing classified information, or bypassing procedures for any reason.

To prevent manipulation, staff should demonstrate professionalism and be transparent, impartial and consistent. The prison administration should ensure that staff are constantly vigilant against attempts to manipulate them and that they receive training on manipulation, including the importance of:

- Adhering to policy and procedures
- Immediately reporting attempts to condition them
- Avoiding over-familiarity with prisoners (friendly, but not friends)
- Establishing clear boundaries (for example, not sharing personal information)
- Acting in a professional, reliable and consistent manner

It should be noted that some countries have created national anti-corruption training institutions, such as the Malaysian Anti-Corruption Academy. Those institutions or preventive anti-corruption bodies (see chapter 3) might be able to support prison administrations in the design or quality assurance of anti-corruption training.

Example: Training on integrity for prison officers and strategies to tackle corruption in Hong Kong

The Hong Kong Correctional Services Department (HKCSD) promotes integrity and an ethical culture among its staff in various ways, including seminars on the Independent Commission Against Corruption, an “Integrity Ambassador” programme and a video competition. Moreover, in 2007, it introduced a Departmental Ethics Committee.

To follow up on its efforts to strengthen ethical governance and integrity management, in 2011 the HKCSD adopted an ethical management model called “Total Ethics Assurance Management,” known as TEAM-SPIRIT. Its main features are:

- (i) The involvement of staff members at all levels in nurturing and fostering an ethical working environment.
- (ii) Inspection on possible risks of unethical practices through the establishment of an effective monitoring mechanism.
- (iii) Continuous training to equip staff members with relevant knowledge and skills in corruption prevention and integrity management.

More recently, the “Zero Tolerance” strategy of the HKCSD resulted in a marked reduction in the number of complaints of corruption against HKCSD staff.

Source: 34th Asian and Pacific Conference of Correctional Administrators, Conference Report, 2014, p. 43.

⁷⁴ National Offender Management Service, “Corruption Prevention: How to Identify, Report and Manage Staff Corruption in Prisons and Headquarters” (4 March 2016), PSI 01/2016 AI 04/2016. Available at <https://www.justice.gov.uk/downloads/offenders/psipso/psi-2016/psi-01-2016-corruption-prevention.pdf>.

Example: Strategies to strengthen prison staff integrity in Thailand

In Thailand, the Department of Corrections recognized that its prison staff may become morally vulnerable and therefore be tempted to commit corrupt acts. To counteract this, an Ethical Protection Office was established to promote positive shared values and the integrity of its corrections officers. The Ethical Protection Office is headed by the Deputy Director General, who reports directly to the Director General.

To promote the positive values of the Department of Corrections, a Standard of Moral[s] and Ethics of Correctional Personnel was introduced. Various programmes and initiatives have been organized to communicate these shared values and to promote professionalism in the officers. Among these, codes of conduct and handbooks have been widely distributed to officers, and officers who have demonstrated exemplary conduct in correctional services have been given honorary awards.

Source: 33rd Asian and Pacific Conference of Correctional Administrators, Conference Report, 2013, p. 34.

Integrity and accountability training for external staff

While the training of prison staff is obviously a priority for any prison administration, the wide variety of external staff working with prisoners, including health-care and faith professionals, teachers and vocational trainers, social workers, contractors and civil society representatives should not be neglected.

While some of these stakeholders only work in prisons periodically or for short time periods, training on the specific requirements of working in the prison setting may prove extremely useful to prepare them to best carry out their duties. Similarly, staff of civil society organizations, lawyers, paralegals and volunteers working in the prison context should be offered training on what working in a prison setting implies.

None of these groups are likely to have the same level of delegated powers as prison officials. However, they may still have considerable influence and discretion regarding important aspects of a prisoner's life. They will often also have considerable insight from an intelligence perspective because in many cases, they will get to know certain prisoners in great depth. For example, psychologists who come to the prison on a part-time basis to provide counselling will learn a lot about the prisoners they counsel, as well as about the dynamics in the prison more broadly. While psychologists must not breach confidentiality, they may still have important information to share that might be relevant in the context of a corruption risk assessment.

Accordingly, it is important to consider how relevant training can also be offered to these external service providers. If training is offered, it should contain specific modules on anti-corruption awareness, accountability and integrity.

Should elaborate training not be feasible, all external service providers should receive, at a minimum, initial briefings that highlight integrity and accountability measures. Furthermore, handouts about channels for reporting alleged misconduct should be provided to them.

Example: United Kingdom

In the United Kingdom, the National Offenders Management Service (NOMS) has revamped its efforts to prevent and combat corruption: “All new and existing prison officers and support staff receive corruption prevention training, which NOMS also delivers to staff of other organizations working in prisons. NOMS will also consider how its corruption prevention programme can be extended to cover those additional staff.”

Source: United Kingdom Anti-Corruption Plan 2014, p. 25. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/388894/UKantiCorruptionPlan.pdf.

Admission procedures for prisoners

United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)

Rule 54

Upon admission, every prisoner shall be promptly provided with written information about:

- (a) The prison law and applicable prison regulations;
- (b) His or her rights, including authorized methods of seeking information, access to legal advice, including through legal aid schemes, and procedures for making requests or complaints;
- (c) His or her obligations, including applicable disciplinary sanctions; and
- (d) All other matters necessary to enable the prisoners to adapt himself or herself to the life in prison.

Rule 55

1. The information referred to in rule 54 shall be available in the most commonly used languages in accordance with the needs of the prison population. If a prisoner does not understand any of those languages, interpretation assistance should be provided.
2. If a prisoner is illiterate, the information shall be conveyed to him or her orally. Prisoners with sensory disabilities should be provided with information in a manner appropriate to their needs.
3. The prison administration shall prominently display summaries of the information in common areas of the prison.

When a person is committed to prison, be it after a conviction or before a trial, he or she should be provided with a briefing and information that will introduce him or her to prison life. This induction is essential not only to familiarize the individual with a drastically different environment, but also to foster positive behaviour as well as an overall climate of integrity and accountability.

The induction of prisoners upon admission has multiple objectives:

- To deal with immediate and urgent needs of the newly admitted detainees
- To enable prisoners to cope in custody

- To ensure that prisoners are confident about whom ask for help and know what sources of assistance they can access
- To provide information, both about custody in general and the routines of the establishment in particular

In short, induction assists prisoners in familiarizing themselves with the prison environment and ensures that they are fully aware of their rights and obligations.

Induction helps to shape prisoners' expectations and relieve concerns about their safety by providing them with information about how the establishment is run and what standards of behaviour are expected of prisoners. Information must therefore be provided about the prison regulations and related procedures of the prison, such as meal and lock-up times, weekday and weekend routines, etc. This information may need repeating at a later stage as prisoners settle in. Prisoners should also learn about expected standards of behaviour, including how prisoners must treat staff and each other, what their responsibilities and duties are and how they are entitled to be treated by staff.

It is important to recall that prisoners are in a particularly vulnerable position at the time of admission. Some may be at risk of self-harm or suicide, and this topic needs to be dealt with sensitively. The induction should therefore also provide prisoners with information on the following:

- Advice on coping in custody, including available sources of assistance, such as access to legal advice, including through legal aid programmes
- How to access health-care services
- Whether there is special assistance for prisoners with drug dependence
- How to access facilities for religious observance
- How to access to other services, such as libraries, laundries or a prison shop
- Whether a "buddy" or peer support system exists, where prisoners help one another with settling in

Induction will thus provide prisoners who are feeling overwhelmed with reassurance that there is help and advice on where to get the help they need.

As outlined in Rules 54 and 55 of the Nelson Mandela Rules (see above), there are many elements that should be observed so that the induction achieves these aims. In particular, it is important that any information provided in the context of the induction is conveyed in a manner appropriate to the individual prisoner. This means that the information is provided in a format and language that the prisoner can understand and that the methods of communication are varied and encourage prisoner interaction. Prison staff running the induction must also bear in mind that there are limits on the amount of information prisoners can absorb at any one time, particularly when they are new to custody and may feel anxious. It is therefore important to avoid using prison-specific "jargon" without explanation, and prison staff should check for understanding, for instance by asking questions and be prepared to repeat information as necessary. The Nelson Mandela Rules are clear that in addition to any oral briefing, all information must also be provided in writing in a language that prisoners understand.

From an anti-corruption perspective, the induction of a prisoner upon admission has the potential to significantly contribute to establishing an ethos of integrity and decency, including respect for diversity. Group activities can be helpful in establishing a sense of mutual responsibility and in demonstrating that the same rules apply to all. In this

context, it is also important to discuss the risks of corruption that life in the prison poses to both prisoners and prison staff. The requirement to inform prisoners about the rules governing prison life, authorized methods of seeking information, access to legal aid and procedures for making requests or complaints, for example, are also crucial if prisoners are ever confronted with corrupt conduct by prison staff.

While the foundations for building and supporting integrity within the prison facility should be laid in the first days of imprisonment, the integration of anti-corruption values into the prison system and prison staff leading by example should continue throughout all stages of imprisonment, thereby contributing to an atmosphere of integrity and accountability. Efforts can be made, for example, to further integrate these core values into educational programmes provided to prisoners throughout their imprisonment.

Example: Singapore

Singapore has a strong political commitment to combating corruption. Accordingly, Singapore has institutionalized a robust, comprehensive anti-corruption framework, based on laws, enforcement and public outreach. Within this framework, the Singapore Prison Service (SPS) has developed several innovative approaches to keep corruption in prisons at bay. The core values of “Synergy”, “Vigilance”, “Integrity” and “Care” are pivotal in driving SPS towards this cause.

Prison officers engage themselves in the role of “Captains of Lives” to the offenders; they act as role models to the prisoners under their care. In the course of recruitment, in addition to interviews, all candidates are carefully screened and undergo a psychometric test to ascertain that they are fit and suitable for their job. Only those committed to the core values of synergy, vigilance, integrity and care are recruited. Coaching and mentoring is used to ensure professional conduct with the highest integrity and in an exemplary manner that upholds public trust and the reputation of SPS. They are encouraged to do what is right without fear or prejudice.

Source: Singapore Prison Service.

4.5. Conflict of interest regulations and asset declaration systems

United Nations Convention against Corruption

Article 7. Public Sector

...

4. Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

Article 8. Codes of conduct for public officials

...

5. Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declaration to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

European Code of Conduct for Prison Staff

7. Prison staff shall not allow their private, financial or other interests to conflict with their position. It is the responsibility of all prison staff to avoid such conflicts of interest and to request guidance in case of doubt.

Source: Recommendation CM/Rec(2012)5 of the Committee of Ministers to member States on the European Code of Ethics for Prison Staff (Adopted by the Committee of Ministers on 12 April 2012 at the 1140th meeting of the Ministers' Deputies).

Reflecting the provisions above, prison administrations should assure that staff are aware of their obligation to report a potential conflict of interest. The applicable code of conduct or relevant prison regulation should make clear reference to conflicts of interest.

The potential for conflicts of interests may vary, depending on whether prison officers are in charge of supervising prisoners on a day-to-day basis, including, for instance, supervising family visits or logging and checking correspondence of prisoners with the outside world, or whether they work in administrative departments, such as financial management, human resources or procurement. Procedures should be put in place to manage conflicts of interest and ensure that both monetary and non-monetary conflicts of interest are avoided and properly managed.

The three key ways to manage conflicts of interest are to (a) register; (b) restrict; and (c) relinquish.

In practice, this means that prison staff should be required to request guidance about an existing or potential conflict of interest (*registration*). For example, if a prison officer is in charge of a block that is housing a close relative, or a procurement officer is involved in a tender for which a family member has submitted an offer, these conflicts of interest should be registered.

When a conflict of interest is registered, the most common solution is to place restrictions on the officer to avoid being improperly influenced (*restriction*). For instance, a prison officer in charge of procurement should step back from his or her involvement in the relevant tender decision if one of the competitors is a family member; an officer in charge of a prison block housing a close relative should request reassignment to another unit.

Alternatively, in some cases, the public official may be required to *relinquish* the private interest that is creating the conflict. For instance, if a prison administrator has shares in a company that benefits from decisions made on procurement, then he or she would have to divest him or herself of those shares.

The prevention of conflict of interest among the employees of any public institution, including prisons, is the responsibility of the manager. Public institutions can have internal systems based on common principles that may or may not include a requirement for middle- and low-level officials to declare assets,⁷⁵ an aspect further discussed below. Which unit or body within the prison system would be responsible for guidance in the case of a conflict of interest depends on the institutional framework. A first point of contact might be an institutional ombudsman, an anti-corruption or human resources focal point within a prison, or the prison officer's supervisor.

⁷⁵ OECD, *Asset Declarations for Public Officials: A Tool to Prevent Corruption* (Paris, 2010), p. 13. Available at <http://www.oecd.org/corruption/anti-bribery/47489446.pdf>.

For further detailed guidance on the subject of corruption in procurement, please refer to the UNODC Guidebook on Anti-Corruption in Public Procurement and the Management of Public Finances,⁷⁶ which highlights risks and mitigating measures in the pre-tender, tender and post-tender stages of procurement and provides measures to increase transparency and accountability.

Asset declarations

The extent and breadth of an asset declaration system's coverage depends on the levels of perceived risk in different areas of the public administration, the overall purpose of the system and the resources available. There is a global trend to focus asset declaration systems on high-level and high-risk officials. Recognizing that various categories of public officials indeed differ from each other, with different levels of responsibility, power and potential to be drawn into conflicts of interest and corruption, countries should consider creating asset declaration regulations tailored for different categories and branches of public officials.⁷⁷

In prison systems, States should consider including relevant ministers, senior prison officials and procurement staff involved in high-value tenders in the list of public officials required to file asset declarations.⁷⁸

Example: Malawi

In December 2013, Malawi enacted Act 22 of 2013, Public Officers (Declaration of Assets, Liabilities and Business Interests). It establishes that the Commissioner and Deputy Commissioner of Prisons and officers in charge of prison stations are among those high-ranking public officials who are obliged to declare their assets, liabilities and business interests in accordance with the law.

Source: <http://crm.misa.org/upload/web/Public%20Officers%20Declaration%20of%20Assets%20Liabilities%20and%20Business%20Interests%20Act%202013.PDF>.

Effectively monitoring asset declarations requires technical expertise. In particular, credible scrutiny of the content of declarations is essential. Challenges in this area are related to internal resources and data management capacities but also arise from the need for access to external sources of data (for example, land, car and property registries; or banking, tax, or insurance information) against which to corroborate declared assets. Verification strategies can be designed based on available resources and context. Discussing the establishment of an asset declaration system in detail is beyond the scope of this publication because it is a national matter with implications for officials in different branches of the public sector.

For further detailed guidance on the monitoring of asset declarations for suspicious changes over time, conducting lifestyle checks, performing targeted verifications based on risk factors, and using public access and public mechanism, see, inter alia, the guides developed by the Stolen Asset Recovery Initiative.⁷⁹

⁷⁶ See UNODC (2013), *Guidebook on Anti-corruption in Public Procurement and the Management of Public Finances*. Available at http://www.unodc.org/documents/corruption/Publications/2013/Guidebook_on_anti-corruption_in_public_procurement_and_the_management_of_public_finances.pdf.

⁷⁷ Ibid.

⁷⁸ Given the secluded environment in prisons where witnesses might be even more fearful to speak up for fear of repercussion, the offence of illicit enrichment, if criminalized in a country, might be an additional method to assure successful prosecutions. However, this optional provision is only criminalized in the minority of States parties. More information can be found in UNODC, *State of Implementation of the United Nations Convention against Corruption*, p. 45 et seq. (see chapter 4).

⁷⁹ See World Bank, *Public Office, Private Interests: Accountability through Income and Asset Disclosure* (Washington, DC, 2012). Available at <https://star.worldbank.org/star/sites/star/files/Public%20Office%20Private%20Interests.pdf>. See also World Bank, *Income and Asset Declarations: Tools and Trade-offs* (Washington, DC, 2009). Available at https://www.unodc.org/documents/corruption/Publications/StAR/StAR_Publication_-_Income_and_Asset_Declarations.pdf.

Staff rotation

Staff rotation is regularly exercised in the management of high-risk prisoners or other sensitive posts and is a highly relevant measure of corruption prevention. Rotation may mean rotating assignments within the unit or prison or may involve periodic rotation out of the unit or facility. In Singapore, for example, all police officers in sensitive and vulnerable posts, such as investigators, field intelligence officers and gambling suppression officers, are rotated every three years to reduce the opportunities for corruption.⁸⁰

If carefully planned, periodic rotation of prison staff in high-risk positions can significantly contribute to minimizing the risks of staff corruption and manipulation. Staff rotation may also improve prison security because it reduces the boredom that may set in if the tedium of important but routine tasks is not relieved. The particularly stressful environment in prisons is created in part by the possibility that this tedium can be broken in an instant by an emergency, such as a staff member being verbally challenged and/or physically attacked by prisoners. Rotation of assignments within the unit or prison, periodic rotation out of the unit or facility, and/or training in stress reduction can help staff handle this demanding work environment while reducing the risk of corruption.

Example: Rotation of prison staff in Santa Cruz County, United States

To combat burnout and fatigue, the Santa Cruz County Sheriff's Office in California rotates staff from assignment to assignment. Correctional officers rotate shifts and facilities but remain in the jail system.

In discussing the positive and negative aspects of assignment rotations, Jim Hart, Chief Deputy of the Santa Cruz Sheriff's Office, comments:

The positive aspect is that people don't get stale. When people [don't] get transferred or promoted to other positions ... their work product declines, or they get bored with the assignment. Every three to five years, all of our staff get transferred. It doesn't all happen at once; it's all staggered. We work on six-month rotations. Generally, people stay a minimum of 18 months in their assignment. When people show certain signs of burnout, or they seem to be disinterested, we will move them to another assignment.

... Over the years, this practice has shown solid evidence that it is in the best interest of the individual and the agency to move around.

Source: <https://www.psychalive.org/working-behind-the-wall-mental-health-of-correctional-based-staff/>.

In public procurement, rotation is also one of the measures implemented by some countries to prevent corruption. In the United Kingdom Department of Defence, for example, the rotation of duties among procurement officers was introduced to avoid the establishment of long-term relationships with external providers.⁸¹ Similarly, accounting officers are rotated every one to three years in the Republic of Korea, procurement commission members are changed on a yearly basis in Brazil, and financial controllers are rotated every three to five years in Luxembourg. Rotation may be difficult in some cases due to the high level of specialization of certain staff whose experience could be seen as essential for the effective functioning of a procurement department. Also, other costs in terms of relocation would need to be considered when making decisions about the costs and benefits of such rotation systems, and whom to include in the programme.

⁸⁰ Jon S. T. Quah, "Preventing Police Corruption in Singapore: The Role of Recruitment, Training and Socialisation," *The Asia Pacific Journal of Public Administration*, Vol. 28, N 1 (June 2006), pp. 59-75.

⁸¹ This complements other practices such as an effective separation of duties, declaration of assets and verifications, effective supervision, safeguards and well-defined operational procedures (OECD, *Integrity in Public Procurement* (2007), pp. 72 and 75).

4.6. Leadership and management

Employing the right individuals is only the first step in managing corruption risks. At the wider strategic level, it is the primary role of the national prison administration or service to develop the necessary systems and processes and to develop corresponding instructions and guidance to prevent and address corruption.

Example: United Kingdom

A good example of effective guidance can be found in the prison service instructions issued by the United Kingdom National Offender Management Service. The instructions explain in detail the requirements for managing prison staff corruption and set out operational instructions as well as a corruption prevention operating framework.

Source: <https://www.justice.gov.uk/downloads/offenders/psipso/psi-2015/psi-01-2016-corruption-prevention.pdf> and <https://www.justice.gov.uk/offenders/psis>.

Heads of prisons, supervisors and senior managers have the responsibility to cascade this information through the ranks. They supervise, provide guidance and enforce adherence to prison regulations and standard operating procedures. Managers who act as supervisors should discuss core values, such as integrity, in annual appraisals and integrate integrity into other relevant staff management measures, such as when considering someone for promotion.

Managerial responsibility also includes a broader responsibility for staff well-being. Prison staff can be more vulnerable to stress than most other civil service staff due to situations of high tension in prisons, the likelihood of assaults and other possible aggravating factors such as being posted in duty stations far away from home. This, in turn, can be a gateway to substance abuse or other forms of addiction, such as gambling, and may even result in consequent debt issues.

Managers should have in place measures and support services to reduce staff vulnerabilities and the likelihood of conditioning and manipulation. The prison administration should make confidential counselling sessions available for staff who are facing problems, suffering from mental health issues, or feeling anxious and stressed. Services offered to ensure the well-being of prison staff may also include debt management and access to drug dependence treatment.

There are many examples of prison managers acknowledging alcohol misuse in the prison work place. While the policy is often to offer support and treatment rather than disciplinary sanctions as the primary response, prison management in most places does not accept drug misuse by prison staff, following a “one strike and you are out” policy. This strict approach may, however, pose particular dangers in the corruption context. Prison staff with a substance abuse problem are ready prey for manipulative prisoners on the inside and organized criminal groups that normally provide the substances on the outside. Prison staff who are unwilling or unable to “come clean” and confide in a counsellor or to their supervisor are highly likely to become vulnerable to corruption. Solving this dilemma requires a difficult balancing act for prison management.

As mentioned above, managers should support and participate in the development of the corruption risk assessment and provide input into developing the subsequent recommendations. Since managers will need to support the widest possible promulgation of the corruption risk mitigation plan, their buy-in is vital. At the operational level, managers

should assure that they or the relevant staff responsible for intelligence-gathering, internal audits and investigations into staff misconduct are sufficiently trained to carry out their anti-corruption functions diligently and with fairness.

Because the primary manifestations of corruption often exist at the local level—in the relationship between prison staff and inmates—this is also where exposing and challenging the wrong-doing should primarily take place. There are a number and variety of avenues through which staff and prisoners can discuss with one another. Many opportunities for exchange are informal and part of the day-to-day running of prisons.

Managers who are aloof and unwilling to get to know either the staff in their charge or prisoners in their care will not be able to know what is going on behind the scenes. Those who regularly walk around their prisons probing every nook and cranny, talking and listening to all, will be more attuned to inappropriate relationships and the manifestations of corruption. More formal dialogues can underpin a culture of transparency. This may involve regular prison unit meetings with unit staff and their managers; supporting the organization of prisoner councils; or even, on certain occasions, a prison-wide meeting held by the governor or director with the participation of both staff and inmates.

Recommendations

- Vacancies in the prison administration should always be publicly advertised in order to attract the best applicants.
- Prison staff should be selected based on merit through an open and competitive recruitment process.
- Next to in-depth interviews, selection methods should include role plays or exposure to practical scenarios in order to test the applicant's integrity as well as his or her competencies.
- The selection of prison staff should be undertaken, at a minimum, by experienced prison staff trained in undertaking assessments of candidates and may be complemented by independent assessors as appropriate.
- Prior to recruitment, prison administrations should consider appropriate vetting procedures and background checks for prison staff as well as external staff in order to ensure, in line with national legislation, the absence of criminal affiliations, certain types of criminal records and other relevant factors.
- The selection of candidates to be recruited into the prison service should be monitored and supervised, including, where possible, through an independent oversight body, such as an independent civil service or prison service commission, with a view to exclude both unwanted bias and any attempts at nepotism.
- Prison administrations should consider the development of a designated code of conduct for prison officers.
- Training on integrity and accountability should be integrated into prison staff training curricula. Related guidance material should be regularly reviewed in order to take account of new risks and changes in regulations.
- Specialized training should be provided to prison staff in charge of managing high-risk prisoners on how to professionally deal with attempts at manipulation and conditioning.
- Prison administrations should establish systems to prevent conflicts of interest and provide prison staff with appropriate guidance.
- Senior management in prison administrations should integrate integrity and accountability into all aspects of the management of their staff.

5



Accountability measures

Accountability measures aim to hold people and institutions responsible for their actions. Therefore, they deal with the monitoring of conduct, the detection and investigation of possible wrongdoing, and the response to and sanctioning of misconduct. Some of the measures are carried out by the institution itself as part of its responsibility to assure adherence to rules and standards; others are carried out by external oversight bodies (see chapter 6).

5.1. Prison intelligence

Prison managers are often asked how prevalent corruption is in their institution. Although the question is impossible to answer in definite terms, collecting indicative information on the prevalence of corruption is an important part of ongoing prison intelligence gathering and monitoring of corruption risks. The gathering of intelligence in prisons—as in many other public bodies—helps to reduce uncertainty and focus resources where needed.

Prison intelligence in its broader sense is crucial from the point of view of dynamic security, as imprisonment does not necessarily put an end to criminal behaviour. In fact, it is very likely that some prisoners will try to continue criminal activity while in prison, for example by operating illicit businesses, sustaining gang-related activity inside the prison, or attempting to radicalize other prisoners to violence. Prisoners may seek to maintain their outside criminal activity, including by operating terrorist operations, drug syndicates or serious organized crime gangs. Some prisoners will also plan escapes and initiate activities intended to undermine the good order of the prison. Prisoners may attempt to have things smuggled into the prison, including mobile phones and other communication devices, illicit substances and drugs, or even weapons. All of these activities are breeding ground for corruption in the prison setting.

In order to ensure that prison authorities can identify any such activities averse to prison security and order, all prisons should have in place a well-structured prison intelligence system to enable security and related information to be gathered and evaluated effectively, consistent with national legislation. Moreover, all prison staff should have the responsibility to actively gather security information and pass this information on to the security department, including informal intelligence in the form of relevant observations made in the context of their day-to-day interactions with the prisoners in their charge.

More specifically, prison intelligence should comprise information gathered from complaints, whistle-blower reports and statistics on the amount of contraband found in the prison, including, for instance, data on smuggled mobile phones. Other relevant sources of information are the number and subject matter of ongoing investigations and adjudicated cases in relation to corruption or related offences, including both disciplinary and criminal cases.⁸² In addition to these more formal sources of data, informal information gleaned from observations and interactions between staff and prisoners can be equally important in painting a full picture of potential corruption or criminal activity within the prison.

The gathering of intelligence and its subsequent management and use are highly skilled tasks that require proper training at all levels in the process.⁸³ It is recommended to establish policies and structures, backed up by adequate resources, to complete the designated tasks so that relevant data can be captured and analysed. Some States now use sophisticated computerized systems to manage intelligence, while others rely on a paper-based system. Both can have important outcomes if the process is managed properly and the data is gathered systematically for a specific purpose. However, information gathered in an ad hoc manner, without proper inter-agency coordination and without required safeguards, can be dangerous, prejudicial to justice, and, as a result, counter-productive to minimizing the risk of corruption and other crimes.

Prisons should therefore set up a prison intelligence unit with skilled and trained staff who are able to deliver well-researched information that can be acted upon with confidence. Such units increasingly exist in many parts of the world.

Example: A correctional intelligence unit in the Bahamas

In 2015, the Department of Correctional Services of the Bahamas opened a new Correctional Intelligence Unit (CIU) to promote and strengthen a focused inter-agency approach to security and intelligence in the Bahamas.

At the dedication ceremony establishing the new unit, the Minister of National Security, the Honourable Dr. Bernard J. Nottage, stated the following:

The Correctional Intelligence Unit is comprised of personnel trained in observation and information gathering. They are tasked to continuously scan the environment inside the prison to produce information dealing with threats for the attention of decision-makers. ... [t]his information [will] help correctional officers and other prison officials to foresee, control and even prevent the risks faced. The scope of intelligence gathered will also cover environments outside of prison facilities to give a broader picture of the threats from both inside and outside the walls of the institution.

Against the backdrop of increased detection, arrest and detention of gang members, he noted that:

We must therefore take steps to ensure that the Services do not become a concentrated gang environment and recruitment centre for gang members. ... As you would appreciate, maintaining integrity in a public safety organization is essential to earning the respect of society. The Department of Correctional Services recognizes that unregulated activities of criminal enterprises pose a direct threat to public safety and the safety and security of the institution and undermine the public confidence of the Department to carry out its mission for the citizens of The Bahamas.

⁸² Depending on the body of evidence, the final charges might only relate to trafficking, misuse of authority, sexual abuse or similar, but might still be relevant to assessing risk.

⁸³ For more information on prison intelligence, see UNODC, *Handbook on Dynamic Security and Prison Intelligence*, Criminal Justice Handbook Series (2015). Available at https://www.unodc.org/documents/justice-and-prison-reform/UNODC_Handbook_on_Dynamic_Security_and_Prison_Intelligence.pdf.

CIU will be further charged with taking the necessary steps to maintain the integrity of the Department of Correctional Services and will be responsible for handling all serious offences and allegations. The Unit will investigate both administrative and criminal matters relative to staff, inmates and even members of the general public whenever there is a vested interest with the Department of Correctional Services.

“The Unit is responsible for objectively conducting thorough, impartial and timely investigations to determine the validity of allegations,” Dr. Nottage said. “The results of these inquiries may provide a basis for criminal prosecution, corrective administrative action, or both.”

The Minister of National Security said the establishment of CIU is part of a progressive, inter-agency approach needed to more effectively address crime in the Bahamas. “[W]e need to embrace a ‘whole of government,’ coordinated approach to the challenges with which we are faced,” Dr. Nottage said. He continued:

It is an approach that integrates, for example, the efforts of the Department of Correctional Services, the Royal Bahamas Police Force, the Royal Bahamas Defence Force, Customs Department, the Department of Immigration and the Port Department to achieve unity of effort toward a shared goal.

We have sought to do this with the establishment of the Heads of Law Enforcement Agencies (HONLEA) in which the leaders interact regularly for the exchange of information and for the development and implementation of crime-fighting strategies and operations.

Source: Department of correctional services intelligence unit established, at <http://www.bahamasnational.com/?q=node/4154>.

In addition, prison intelligence should be part of a broader law enforcement intelligence system that exchanges information on a mutual basis. The effectiveness of such multi-agency cooperation can be measured in terms of the volume and quality of information exchanged as well as how quickly requests from one agency to another are answered.

Prison intelligence can be a key factor in successful law enforcement operations outside prison, and intelligence from outside law enforcement agencies can be very valuable in understanding what is happening in prison. Accordingly, the prison administration should consider establishing formal collaboration agreements with the police and/or creating joint task forces to bring together staff from both institutions. For the analysis of certain data, such as accessing data saved on seized illicit mobile phones, collaboration with the police might be required because the data extraction and analysis is probably technically not possible within the prison setting.

For further information on prison intelligence, see the UNODC Handbook on Dynamic Security and Prison Intelligence.⁸⁴

Example: Coordinated collection of corruption-related intelligence

The United Kingdom National Offender Management Service (NOMS) is an executive agency of the Ministry of Justice with overarching responsibility for Her Majesty’s Prison Service and the National Probation Service. Its Corruption Prevention Unit (CPU) is a part of the NOMS National Intelligence Unit, Security Group.

CPU is the national intelligence hub through which corruption intelligence is collected from the local prison level (Local Corruption Prevention Manager) and/or regional level and

⁸⁴ Ibid.

Example: Coordinated collection of corruption-related intelligence (continued)

passed between prisons and the police. It also undertakes strategic analysis of the level, location and nature of corruption across NOMS. This in turn enables CPU to negotiate the most appropriate policing response as necessary.^a

Given the continuing challenges faced by the prison system, including the risk of corruption, “NOMS is improving information and intelligence sharing both internally and with its law enforcement partners. An integrated IT system to process and manage intelligence, including corruption, has recently been rolled out across all prisons to allow secure corruption reporting.”^b

Instructions for the prison and probation service outline how staff-related intelligence must be processed, developed and managed by the national network of Corruption Prevention Managers in partnership with Law Enforcement Agencies that are responsible for investigating crime.^c

Inter-agency collaboration: The core obligations to share intelligence regarding the reporting and investigation of NOMS staff corruption are set out in a Memorandum of Understanding between NOMS and the Police Service.

One example of effective collaboration is the London Prison Anti-Corruption Team, physically located at the Metropolitan Police Service Headquarters (the New Scotland Yard). It was created following discussions in 2008 between the Metropolitan Police Service and NOMS following some high-profile prison corruption cases and considerable political and media interest.

The aim of the unit is to strengthen the detection, investigation and prosecution of prison staff posing the greatest corruption threat to the eight prisons within the London Metropolitan area. The initial agreement was that the project would run for 12 months from April 2008 to April 2009. Since then, however, it continues to operate and is jointly financed by the two agencies on a year-to-year basis. It currently operates with up to five police personnel and between three to four prison staff and has had significant success in terms of prosecutions.

Source: <https://www.justice.gov.uk/downloads/offenders/psipso/psi-2015/psi-01-2016-corruption-prevention.pdf>

^a See <http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm130902/text/130902w0009.htm>.

^b *United Kingdom Anti-Corruption Plan* (London, 2014). Available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/388894/UKantiCorruptionPlan.pdf.

^c See section 4.4. See also “Corruption Prevention: How to Identify, Report and Manage Staff Corruption in the National Probation Service,” available at <https://www.justice.gov.uk/downloads/offenders/probation-instructions/pi-05-2016-corruption-prevention.pdf>.

5.2. Reporting channels

United Nations Convention against Corruption

Article 8. Codes of conduct for public officials

...

4. Each State Party shall also consider, in accordance with the fundamental principles of its domestic law, establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions.

Article 33. Protection of reporting persons

Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who

reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention.

Also see article 32 on witness protection, article 37 on cooperating offenders and article 13 (2), on anonymous reporting lines.

United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)

Rule 56

1. Every prisoner shall have the opportunity each day to make requests or complaints to the prison director or the prison staff member authorized to represent him or her.
2. It shall be possible to make requests or complaints to the inspector of prisons during his or her inspections. The prisoner shall have the opportunity to talk to the inspector or any other inspecting officer freely and in full confidentiality, without the director or other members of the staff being present.
3. Every prisoner shall be allowed to make a request or complaint regarding his or her treatment, without censorship as to substance, to the central prison administration and to the judicial or other competent authorities, including those vested with reviewing or remedial power.
4. The rights under paragraphs 1 to 3 of this rule shall extend to the legal adviser of the prisoner. In those cases where neither the prisoner nor his or her legal adviser has the possibility of exercising such rights, a member of the prisoner's family or any other person who has knowledge of the case may do so.

One necessary element of any sound accountability system is an effective procedure for dealing with reports of alleged misconduct that ensures the confidentiality of those providing the information, thereby encouraging the reporting of such incidents. There is a wide range of approaches to achieving this objective, including whistle-blower protection, confidential reporting systems for victims and witnesses, hotlines and Internet-based reporting, confidential reporting mechanisms for prisoners, and witness protection programmes.

Example: Singapore

In Singapore, any officer who witnesses behaviours or practices that he/she considers wrong or harmful to the Singapore Prison Service, but hesitates to address this through the command chain, can make use of the Ethical Disclosure system that provides a by-pass channel, allowing ethical disclosures to the Deputy Commissioner/Chief-of-Staff directly. All disclosures submitted in this way are treated with utmost confidentiality, taken seriously and every case investigated thoroughly. On a quarterly basis, all officers are invited to make such ethical disclosures.

Source: Singapore Prison Service.

Whistle-blowers

Whistle-blowers play a vital role in exposing corruption and fraud as well as in preventing severe mismanagement and abuse that arise from negligence or wrongdoing. Often, whistle-blowers expose themselves to high personal risks in order to protect the public

good. When speaking out against their superiors or colleagues, they risk losing their jobs, reputation, income and even personal security. Nevertheless, rather than being heard and praised for their courage, many whistle-blowers face indifference, mistrust or psychological and physical harassment. Often, their reports are not properly investigated. Whistle-blowers may end up in years of legal litigation, fighting for their own rights or for the case that they have disclosed to be adequately investigated.⁸⁵

In recent years, an increasing number of States have stepped up their commitments to facilitate reporting and whistle-blower protection by adopting laws and/or creating policies and measures at both the national and institutional level. Even in the absence of comprehensive legislation to protect whistle-blowers, institutional policy measures can have a positive effect on reporting:

Ever more companies, public bodies and non-profit organizations put whistleblowing mechanisms in place for effective risk management and to ensure safe and accountable workplaces. Given that whistle-blowers are in most cases insiders who are the first to detect wrongdoing, functioning internal whistleblowing systems are excellent tools for effective risk management in organizations.⁸⁶

Whistle-blower protection may also be an important strategy for uncovering corruption in prison settings. However, the risk for a whistle-blower among prison staff can be particularly high because the team spirit among prison officers can quickly turn into a suffocating “esprit de corps” with, for example, pacts of silence that reinforce a culture of impunity.⁸⁷ If a whistle-blower violates these unwritten codes, he or she may quickly become an outcast and may be treated with contempt or active retaliation by the group. It is therefore particularly important for prison management to (a) address the staff relationship so that peer pressure to keep silent about the misconduct of others is reduced; and (b) put in place effective whistle-blower protection measures so that reports can be made anonymously, in as far as this is possible without breaching the rights of the person(s) accused.

Example: Institutional whistle-blowing policies in the prison system in South Africa

In 2004, the Department of Correctional Services of South Africa developed a whistleblowing policy to strengthen the implementation of the Protected Disclosure Act No. 26 of 2000 within the institution.

The Department’s whistleblowing policy is a tool to give effect to the Department’s anti-corruption strategy and fraud prevention plan. It enables employees to report fraud, corruption and malpractice within the Department without any fear of occupational detriment (any form of work-related victimization). The policy outlines the types of cases that can be reported, where reports can be made internally or externally to the National Anti-Corruption Hotline, the bounds within which such referrals can be made and the criteria to be followed. The protection of whistle-blowers forms the integral part of this policy in order to allay the fears which people may have as a result of past experience of victimization and intimidation. Staff awareness on integrity and the policy is raised through various efforts including the Department’s newsletter Corrections@Work.

Source: http://www.dcs.gov.za/Publications/Corrections%20At%20Work/Corrections@Work_Winter_2015.pdf.

⁸⁵ Anja Osterhaus and Craig Fagan, *Alternatives to Silence: Whistleblower Protection in 10 European Countries* (2009). Available at www.transparency.org/whatwedo/pub/alternative_to_silence_whistleblower_protection_in_10_european_countries.

⁸⁶ Ibid.

⁸⁷ *Penal Reform International, Institutional Culture in Detention: A Framework for Preventive Monitoring*. A Detention Monitoring Tool Resource, 2nd edition, p. 9. Available at <http://www.penalreform.org/wp-content/uploads/2016/01/culture-in-detention-2nd-ed-v6.pdf>.

Example: United Kingdom: Whistle-blowing policies and practices

The 2014 United Kingdom Anti-Corruption Plan noted that “since 2008 reporting levels for prison corruption have risen steadily as a result of greater awareness of the corruption prevention strategy and of Reporting Wrongdoing (Whistleblowing) policies. This has led to improved levels of intelligence sharing and joint working with Law Enforcement partners.” Public Concern at Work, a non-governmental organization based in the United Kingdom providing legal advice to persons who consider blowing the whistle and to whistle-blowers who become victims of detrimental action, has produced a cases and good practices summary on whistle-blowing in the public sector. It includes the case of a female prison officer who reported the misconduct of fellow officers and won her case, including a substantial amount for damages, after being ostracized as a result of her whistle-blowing.

Source: United Kingdom Anti-Corruption Plan (2014).

Reports by whistle-blowers can generally be made either within an institution through the internally available reporting channels or, alternatively, through external reporting channels (for example, to an anti-corruption body, the police or the prosecution service). The institution receiving the reports should establish clear rules and responsibilities for the handling and investigation of any such reports as well as for maintaining confidentiality and providing feedback to the whistle-blower. In many instances, the information provided might be insufficient to build a case and might require further corroboration or a wider investigation. Whistle-blowers should be provided with regular feedback so that they do not get the impression that their concerns have been ignored, as this could deter future reporting and might leave them disgruntled and disillusioned.

Whistle-blowing channels and protective measures should also be available, as much as possible, to external staff.

For further detailed guidance on whistle-blower protection as well as on the issue of reporting to the public or the media, see the UNODC Resource Guide on Good Practices in the Protection of Reporting Persons.⁸⁸

Hotlines and Internet-based reporting systems

Hotlines to lodge complaints are common in the private sector and increasingly also within law enforcement agencies. However, they are still rare in prison systems.

Nevertheless, prison administrations should raise awareness among staff as well as prisoners and other stakeholders about the existence of national hotlines to report corruption if such hotlines exist (they might be run by the police, the prosecution service or a national anti-corruption body). Article 13(2) of the United Nations Convention against Corruption, for instance, requires States to “take appropriate measures to ensure that the relevant anti-corruption bodies are known to the public and shall provide access to such bodies for the reporting, including anonymously.”

⁸⁸ See UNODC (2015), *Resource Guide on Good Practices in the Protection of Reporting Persons*. Available at https://www.unodc.org/documents/corruption/Publications/2015/15-04741_Person_Guide_eBook.pdf.

Example: A hotline for South Africa's prisons

The Jali Commission, a commission of inquiry into alleged incidents of corruption, maladministration, violence or intimidation in South Africa's Department of Correctional Services, in its final report explicitly found that money for a hotline "was well spent and a corruption toll-free line should not be regarded as unnecessary or ignored in the fight against corruption."

Source: Jali Commission, Final report, p. 607. Available at <http://www.gov.za/documents/commissions-act-commission-inquiry-jali-commission-alleged-incidents-corruption>.

In addition to telephone hotlines, an increasing number of States operate computer-based platforms for complaints or reporting of corruption, either at the national level or in relation to a particular governmental agency. Some of them enable encrypted two-way communication which maintains the anonymity of the person calling.

Example: Internet-based submission of complaints in the Russian Federation

Hotlines and Internet-based reporting systems can be important tools in the fight against corruption in prisons. The accessibility and simplicity of their complaints procedures make anti-corruption efforts effective. The Internet-based reporting system of the Federal Penitentiary Service of the Russian Federation (FSIN) offers a good example of this approach.

Detainees, their relatives and anyone in the general public can lodge a complaint through the official FSIN website by completing a short application form. The form includes the applicant's name and a description of his/her complaint or proposal.

Complaints claiming that a prison officer has violated a law are analysed by monitoring bodies of FSIN. If there are indications that the complaint is not obviously unfounded, the Federal Penitentiary Services carries out an on-site investigation into the alleged violation, and the results are communicated to the management of the institutions and the appropriate bodies of FSIN.

In 2016, the Federal Penitentiary Services of the Russian Federation received a total of 35,677 reports of alleged corruption cases, including 9,083 filed through official Internet-based reporting system.

Source: The official website of the Federal Penitentiary Service of the Russian Federation, available at <http://www.fsin.ru/structure/management/obzor-obrashcheniy-grazhdan>.

Reporting systems for prisoners

Prisoners might be involved in corruption with prison officers; they might be direct victims of requests for bribes; or they might be witnesses of corrupt conduct between fellow prisoners and officers.

In line with the Nelson Mandela Rules, Rule 54(b), prisoners should be informed, upon admission, of the different channels available to submit complaints, including how to report misconduct. However, they will often have reasons not to report misconduct. They might be direct beneficiaries of corruption, for example, or if they do not benefit at the moment, they may keep their knowledge about the corrupt act to themselves because it can be used at a later stage to make those implicated vulnerable to another corrupt act. Prisoners may also keep quiet because they are in a position of vulnerability and fear retribution from fellow prisoners or prison staff if they report the misconduct they have witnessed.

Motivating prisoners to speak up against corruption therefore requires a particularly well-designed approach to overcome any of the inherent reservations that prisoners may have about reporting misconduct. As outlined above, the Nelson Mandela Rules require different complaint avenues for prisoners, including (a) to the prison director or his or her representative (daily access); (b) to representatives of independent prison inspection mechanisms, in full confidentiality; and (c) to the central prison administration or the judicial or other competent authorities, without censorship of substance. As general complaints systems for prisoners will be in place in most Member States—albeit of different qualities—it seems plausible to also use such general complaints systems for reporting on corruption, in particular as they are of a confidential nature.

Finally, members of civil society organizations, lawyers and paralegals also have a role to play in this context. They often will be in a position to build a close relationship with prisoners so that prisoners may prefer to confide in them as a viable alternative to using official reporting options. In this regard, it should be highlighted that the Nelson Mandela Rules, Rule 56(4) extends the right to complain to the prisoner's legal adviser and, in case neither the prisoner nor his or her legal adviser are able to exercise this right, to the prisoner's family or any other person who has knowledge of the case.

Witness protection

Criminal justice systems have a duty to put in place procedures that provide for the protection of persons whose cooperation with the criminal justice system in an investigation or prosecution puts them, or persons closely associated with them, at risk of serious physical or emotional harm. This obligation also exists towards prisoners. In other words, in the case that a prisoner becomes a witness in an anti-corruption investigation and must testify in the subsequent court trial, investigators should take all necessary measures during the investigation and court proceedings to ensure the protection of that prisoner. Depending on national legislation, such protection measures may include, for instance, concealing the identity of the witness in court documents or the use of video testimony. In cases of very high threat levels, even entry into a covert witness protection programme should be considered as an option. Where effective witness protection programmes exist, they are likely to have experience in dealing with cooperating offenders who are already in (pretrial) detention because cooperating offenders might provide evidence for the prosecution in a trial in the hope of being granted immunity or a reduced prison sentence. The witness protection programme will therefore have some expertise in handling situations of witnesses detained in prisons.

Within the prison system, special measures are required to protect the life of persons at risk because of their testimony in a criminal proceeding. These measures are usually administered by a special branch within the prison administration, in coordination with the local protection unit. Such measures may include:

- Separation from the general prison population
- Use of a different name for the prisoner-witness in the court and trial records or anonymizing witness statements
- Special transportation arrangements for in-court testimony
- Accommodation in separate detention units at the prison or even transfer to a different prison⁸⁹

⁸⁹ See UNODC (2008), *Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Organized Crime*, p. 20. Available at <http://www.unodc.org/documents/organized-crime/Witness-protection-manual-Feb08.pdf>. For applicable procedures in cases where there is reasonable grounds to believe that an act of torture or other cruel, inhuman or degrading treatment or punishment has been committed in prison, also see the Nelson Mandela Rules. More specifically, Rule 71(3) requires the prison administration to take immediate steps in order to ensure that all potentially implicated persons have no involvement in the investigation (to be undertaken by an authority independent of the prison administration) and no contact with the witnesses, the victim or the victim's family.

For prison officers who witness corruption and are willing to testify, the same general principles are valid: they must be granted adequate protection during the investigation and trial.

Measures to mitigate the threat experienced by prison staff or detainees who testify may include:

- Assistance in coping with the psychological and practical obstacles of testifying
- Protective measures before, during, and after the hearing or trial, including through adequate court procedures to ensure the witness's safety while testifying
- The inclusion into a covert witness protection programme, in cases where the threat level is so high that this seems necessary

Just as detainees may be moved to separate detention units at the prison or even be transferred, prison staff who testify as witnesses in corruption cases also may be rotated to a different duty station, if this is required to adequately protect them.

Of course, victim protection measures should also be offered to any other persons who testify about corruption in the prison setting but who are neither staff nor prisoners, including, for instance, external staff and visitors.

The use of technology

Many prison systems now use various forms of technology to discourage or detect wrongdoing, including CCTV cameras, audio and video monitoring systems, scanners to check visitors or staff for contraband and electronic prisoner file management systems with secure audit trails.⁹⁰ Video footage can help to corroborate allegations of misconduct and may be used as material evidence if a secure chain of evidence is established; computerized systems can detect unauthorized access by employees or prisoners to places that they should not have access to, such as storage facilities; and the possibility of tracking every modification in the electronic file of a prisoner will significantly reduce the risk of such unauthorized access.⁹¹ It has been noted in this context that “although any technology stands at risk of being manipulated or even bypassed in order to defeat the aims of its deployment, this capability is likely to be possessed only by relatively few staff members, meaning the potential for detection would typically be expected to be higher than before its introduction”.⁹²

Where feasible, States should consider investing in the acquisition and maintenance of relevant technology, and prison managers should assure their appropriate use in day-to-day operations. However, the use of technology must not excessively aggravate the life of prisoners or unnecessarily intrude upon their privacy. It is of great importance in this regard to find an adequate balance between the need to protect fundamental human rights on the one hand, and the potential advantages provided by the use of modern technology in prison facilities on the other.

European Court on Human Rights: Balancing the use of technology and human rights

Technology and surveillance tools have advanced significantly in recent years. Maintaining an up-to-date and well-functioning IT system is of great importance to the work of any organization. Without a doubt, the use of technology in prison facilities has greatly enhanced the performance and efficiency of prison staff as well as the security of prison inmates and officers. However, the use of new technologies in the prison setting also has an important human rights dimension because technological advances in prison facilities may directly affect a person's right to privacy.

⁹⁰ See also the Nelson Mandela Rules, Rule 6.

⁹¹ Andrew Goldsmith, and others, *Tackling Correctional Corruption* (Palgrave Macmillan, 2016), pp. 131-132.

⁹² *Ibid.*

The balance between human rights concerns and the use of technology in prison facilities was, for example, discussed in a June 2004 case before the European Court on Human Rights concerning video surveillance of a prisoner (*Van der Graaf v. the Netherlands*, decision on the admissibility).

In May 2002, the applicant was arrested and taken into custody on suspicion of having shot and killed a well-known politician. He was placed under permanent camera surveillance. His appeals against the successive orders to prolong his permanent camera surveillance were accepted as well-founded. The court found that there was no legal basis for imposing such a measure, given his individual detention regime. In July 2002, an amendment was introduced to the relevant prison regulations, whereby it also became possible to place detainees who were under an individual detention regime under permanent camera surveillance. On that same day, the governor of the remand centre issued a new order for the applicant's camera surveillance. The applicant's appeal was this time rejected as the measure had a sufficient legal basis in the amended rules.

The Court declared the application inadmissible, both under Article 3 (prohibition of inhuman or degrading treatment) and Article 8 (right to respect for private and family life) of the European Convention on Human Rights, as being manifestly ill-founded.

First, the Court considered that, while being permanently observed by a camera for a period of about four and a half months may have caused the applicant feelings of distress for lack of any form of privacy, it had not been sufficiently established that such a measure had in fact subjected him to mental suffering of a level of severity such as to constitute inhuman or degrading treatment.

Second, the Court noted that the placing of the applicant under permanent camera surveillance constituted a serious interference with his right to respect for his private life. However, the measure had a basis in domestic law and pursued the legitimate aim of preventing the applicant's escape or harm to his health. Therefore, given the great public unrest caused by the applicant's offence and the importance of bringing him to trial, the Court found that the interference complained of could be regarded as necessary in a democratic society in the interests of public safety and the prevention of disorder and crime.

Source: http://www.echr.coe.int/Documents/FS_Detention_conditions_ENG.pdf.

5.3. Disciplinary and criminal procedures

An effective accountability system requires a proper complaints system that (a) is easily accessible to all who may have relevant information; and (b) can effectively investigate allegations and recommend disciplinary sanctions or refer cases for criminal prosecution. In fact, disciplinary and criminal procedures are part of the foundation of a well-functioning anti-corruption system.

United Nations Convention against Corruption

Article 30. Prosecution, adjudication and sanctions

...

6. Each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures through which a public official accused of an offence established in accordance with this Convention may, where appropriate, be removed, suspended or reassigned by the appropriate authority, bearing in mind respect for the principle of the presumption of innocence.

United Nations Convention against Corruption *(continued)*

7 Where warranted by the gravity of the offence, each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures for the disqualification, by court order or any other appropriate means, for a period of time determined by its domestic law, of persons convicted of offences established in accordance with this Convention from:

- (a) Holding public office; and
- (b) Holding office in an enterprise owned in whole or in part by the State.

8. Paragraph 1 of this article shall be without prejudice to the exercise of disciplinary powers by the competent authorities against civil servants.

Disciplinary proceedings against prison staff

Every national prison service will usually have an internal disciplinary system. As part of that system, it will be the direct responsibility of supervisors and staff with managerial functions in the prison system to address misconduct by members of their staff. In severe cases, formal disciplinary proceedings will be opened. These generally fall within the realm of administrative, rather than criminal, law. While similarities may exist between the two types of proceedings, such as the presumption of innocence of the accused and adherence to fair trial procedures, including the right to appeal, the burden of proof for internal disciplinary proceedings holds a lower “balance of probabilities” standard than the “beyond reasonable doubt” standard in criminal prosecution.

Disciplinary responses to the misconduct of prison officers will depend on national legislation, including the applicable disciplinary codes and procedures. Such disciplinary procedures will often be contained in the terms of employment or the staff handbook. Disciplinary sanctions can include a warning, verbal or written; suspension with or without pay; and, ultimately, dismissal. Before any sanction more serious than a verbal warning is given, the accused prison officer should be given the opportunity to state his or her case in a disciplinary hearing, as well as a right to eventually appeal the disciplinary decision.

A disciplinary offence is often referred to as a neglect of duty or breach of the code of conduct. In some cases, misconduct might also constitute a criminal offence under national law, such as a case of corruption. In other cases, the misconduct might not reach this threshold and warrant a milder and merely disciplinary response. Examples of this type of offence might include, for instance, the pursuit of private activities during working hours, being rude to colleagues or members of the public, alcohol abuse at work, insubordination, and disrespect for standard operational procedures. The assessment of such situations will depend on the details of the individual case, the extent of the misconduct, and the risks it creates for the prison and its staff and inmates.

For an effective internal disciplinary system, it is important to have a designated unit in charge of the investigation of alleged misconduct.

Example: The Jali Commission, South Africa

The 2006 Jali Commission Final Report emphasized that the discipline of employees should be entrusted to an independent outside agency or to the Public Service Commission.

The recommendations of the Jali Commission also included a strict time frame for disciplinary proceedings because slow response may potentially undermine the effectiveness of the system. The report therefore even suggested interim measures:

Notwithstanding the main recommendations in the chapter on Disciplinary Inquiries, the Department should as an interim measure arrange with an independent specialist organisation to train an identified group of members on how to: *(i)* conduct disciplinary enquiries; *(ii)* investigate labour relations matters; *(iii)* present evidence before the labour relations tribunals; *(iv)* tender of evidence in disciplinary matters.

One of the initiatives that followed the Jali Commission report was the interim partnering with the Special Investigation Unit (SIU) of South Africa to conduct investigations into the Department of Correctional Services. The first partnership between the Department and the SIU was signed in 2002, for a three-year term, in response to accusations made to the Jali Commission of rampant corruption in the Department of Correctional Services. It was subsequently followed by further collaboration.

Source: Jali Commission, Final Report. Available at <http://www.gov.za/documents/commissions-act-commission-inquiry-jali-commission-alleged-incidents-corruption>.

Sometimes, often due to the different standard of proof that is generally applied in disciplinary proceedings as opposed to criminal proceedings, the disciplinary offence may be easier to prove than the criminal offence and can thus constitute the first stage in the accountability process.

However, whenever there is information that an infraction may amount to a criminal offence, the alleged offence should not be solely dealt with within the internal disciplinary framework. It should also be reported immediately to the authorities responsible for criminal prosecution so that, when the necessary threshold is met, a criminal investigation may be initiated. In some jurisdictions, when a disciplinary investigation leads to a criminal investigation, the disciplinary procedure must be frozen until the results of the criminal investigation are available. In cases where there is information that a criminal offence may have been committed but the criminal investigation authorities find that there is not enough evidence to charge the suspected officer, he or she may still be subjected to disciplinary proceedings.

Example: A United States case

Two judges in Luzerne County, Pennsylvania were convicted of a number of corruption-related offences for having received millions of dollars in return for helping in the construction and operation of privately-owned juvenile detention centres. Once the juvenile detention centres were built, Judge Mark Ciavarella was found to have ordered the detention of hundreds of juvenile offenders, in many cases disregarding the recommendations of juvenile probation officers or pressuring them to recommend detention, in order to ensure the successful operation of the centres. In no case did he reveal his conflict of interest. An independent review of the cases in which Ciavarella had ordered the detention of juveniles found that there was a routine deprivation of the children's constitutional rights to be heard by an impartial tribunal. Ciavarella was convicted of a number of serious offences and was sentenced to 28 years of imprisonment. The case became known as the "kids for cash" scandal.

Source: *U.S.A. v. Mark Ciavarella Jr.*, United States Court of Appeal for the Third Circuit, No. 11-327, 24 May 2013. Available online: <https://www.documentcloud.org/documents/703636-gov-uscourts-ca3-11-3277-003011272332-0.html>.

Findings from the United Nations Convention against Corruption implementation reviews

The 2017 *State of Implementation of the United Nations Convention against Corruption* reported the following:

Most States parties have taken measures to implement paragraph 6 of article 30—a non-mandatory provision—on the suspension, removal from office or reassignment of public officials accused of corruption offences, with a view to facilitating investigations and preventing tampering with evidence or the commission of new crimes. In some cases where gaps were identified (especially regarding reassignment and removal), recommendations were issued encouraging States parties to consider adopting clearer and more specific measures with regard to all public officials accused of corruption offences. ...

Suspension of public officials (also called “interdiction”) is possible in the large majority of jurisdictions, and is applied as a rule, either for a specific period of time (e.g., while the official is in preventive detention) or indefinitely, when the official finds himself or herself under criminal investigation, pending the resolution of the investigation or a court procedure. The same usually applies for the transfer or reassignment of an employee allegedly involved in an offence—although not as many States have provided information in this regard. ...

The measures on suspension and reassignment are normally based on the disciplinary regulations governing breaches of duty by civil servants, as contained, for example, in public service codes of conduct, public ethics acts and rules on administrative inquiries. Special rules (e.g. police or judicial service regulations or rules governing diplomatic and consular missions) may govern the treatment of particular categories of public employees...

The report further provides an example that had been identified as successful and good practice:

In one State party, the public service commission’s rules and practice for recording disciplinary and ethics proceedings and for producing transcripts in a timely manner were observed to promote transparency, accountability and consistency and to significantly enhance public confidence in its decision-making processes. The average period in which disciplinary and ethics cases are completed by the relevant tribunal has been reduced in recent years from several years to between three and six months. ...

Source: UNODC (2017), State of Implementation of the United Nations Convention against Corruption.

The above-mentioned findings provide an overview of the legal framework in the majority of States. However, no comprehensive data exists if and how these rules are put into practice at the institutional level, for example in the prison system. The prison administration and prison managers are encouraged to make use of the available legal framework for their disciplinary action and, in accordance with the fundamental principles of the national legal system, to increase transparency about the process and decisions made.

Example: Transparency with regards to disciplinary decision in Panama

The Technical Advisory Opinion No. 004/2013 of UNODC Regional Office for Central America and the Caribbean in Panama, addressed to the National Authority for Transparency and Access to Information and the General Office of the Penitentiary System of the Republic of Panama, states:

According to information from the General Office of the Penitentiary System of Panama, in the first five months of 2013, 82 public officials of the prison system have been sanctioned for corruption while only 24 officers have been dismissed. Overall,

it is emphasized that most of the Latin American countries do not have the needed mechanisms for internal or external control in their prison systems. The lack of oversight by different bodies ensures a high level of impunity and tolerance of corruption in different countries of the region. However, the numbers presented by the Panamanian government show that the country is working to ensure that corruption in prisons is duly punished.

Source: UNODC ROPAN Technical Advisory Opinion No. 004/2013 addressed to the National Authority for Transparency and Access to Information and the General Office of the Penitentiary System of the Republic of Panama.

When corruption by a prison officer is identified or suspected, it is incumbent upon prison managers to act expeditiously. One of the first decisions of the prison manager will be whether or not to allow the accused individual continued access to the prison. Where continued access to the prison does not seem a viable option, the prison officer may be suspended from office, with or without pay, or may be placed on other duties in the system that do not require him or her to continue to work in his or her previously assigned prison wing. That decision will be based on the seriousness of the case and the need to protect the security of the institution as well as that of staff and inmates. It is then incumbent on the prison manager to review that decision as time goes on, in the light of the progress and outcome of the internal or external investigation.

If a prison staff member is suspended, whether he or she will continue to receive a salary during the time of suspension depends on the applicable law. Prison managers may or may not have discretion on such issues.

If a prison employee is arrested, charged and placed in pretrial detention, prison management will have to decide where in the prison system to house that individual in order to protect both the individual and the integrity of the investigation and prosecution.

Upon conviction of a corruption offence, disqualification from holding public office is a possible consequence in the majority of States, consistent with article 30 (7) of the United Nations Convention against Corruption. Furthermore, the conviction of a public official generally opens the door for his or her permanent removal from office. Some States provide, in parallel to the applicable administrative procedures, the possibility of settling the matter of removal from office by a court authority. In particular, the court convicting a public official for corruption may also order his or her removal.⁹³ This also applies in the context of corrupt prison officers.

Disciplinary proceedings against prisoners

United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)

Rule 39

1. No prisoner shall be sanctioned except in accordance with the terms of the law or regulation ... and the principles of fairness and due process. A prisoner shall never be sanctioned twice for the same act or offence.

⁹³ Ibid, pp. 105 et seq.

**United Nations Standard Minimum Rules for the Treatment of Prisoners
(the Nelson Mandela Rules) (continued)**

2. Prison administrations shall ensure proportionality between a disciplinary sanction and the offence for which it is established, and shall keep a proper record of all disciplinary sanctions imposed.

Rule 41

1. Any allegation of a disciplinary offence by a prisoner shall be reported promptly to the competent authority, which shall investigate it without undue delay.

2. Prisoners shall be informed, without delay and in a language that they understand, of the nature of the accusations against them and shall be given adequate time and facilities for the preparation of their defence.

3. Prisoners shall be allowed to defend themselves in person, or through legal assistance when the interests of justice so require, particularly in cases involving serious disciplinary charges. If the prisoners do not understand or speak the language used at a disciplinary hearing, they shall be assisted by a competent interpreter free of charge.

4. Prisoners shall have an opportunity to seek judicial review of disciplinary sanctions imposed against them.

5. In the event that a breach of discipline is prosecuted as a crime, prisoners shall be entitled to all due process guarantees applicable to criminal proceedings, including unimpeded access to a legal adviser.

Rule 43

1. In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment. The following practices, in particular, shall be prohibited:

- (a) Indefinite solitary confinement;
- (b) Prolonged solitary confinement;
- (c) Placement of a prisoner in a dark or constantly lit cell;
- (d) Corporal punishment or the reduction of a prisoner's diet or drinking water;
- (e) Collective punishment.

2. Instruments of restraint shall never be applied as a sanction for disciplinary offences.

3. Disciplinary sanctions or restrictive measures shall not include the prohibition of family contact. The means of family contact may only be restricted for a limited time period and as strictly required for the maintenance of security and order.

The Bangkok Rules

The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) supplement the above rules to provide particular protection to pregnant women, women with infants and breastfeeding mothers in prison (rules 22 and 23 on discipline and punishment).

From time to time, it is inevitable that some prisoners will break the rules and regulations of the prison. In more serious cases, this may involve instances of staff manipulation, bribery or smuggling of contraband, for example. The formal disciplinary system outlined in Rule 37 of the Nelson Mandela Rules is one of the methods of maintaining order in prisons, in particular in order to restore a significant breach of discipline in prison order and when other means, such as alternative dispute resolution mechanisms, prove unsuitable for achieving this objective.

The Nelson Mandela Rules outline detailed guidance and a number of core safeguards that should govern the imposition of disciplinary sanctions against prisoners, including that prisoners should:

1. Upon admission, be acquainted and provided with the applicable disciplinary rules (Rule 39).
2. Only be disciplined through a formal and fair process governed by the principles of legality and proportionality (Rule 41).
3. Not be sanctioned unless they have been informed of, and were able to defend themselves against, the alleged offence (Rule 54(c)).

With regard to the nature of the sanctions or restrictions imposed, the rules further exclude any practice amounting to torture or ill-treatment (see rules above) and require that any of the general living conditions outlined in the rules continue to apply to sanctioned prisoners.

In all jurisdictions, major alleged criminal acts committed in prisons are reported by the prison administration to the relevant external authority (police, prosecutor, investigatory magistrate). In some jurisdictions, all alleged criminal acts, including minor offences, must by law be reported to the relevant authority, whereas others restrict this to only the most serious cases. The prison administration and prison staff will be responsible for deciding, in accordance with national legislation as well as relevant internal guidelines, when to refer a case for criminal prosecution. Where the breach of discipline is prosecuted as a crime, the prisoner is entitled to all the legal safeguards and facilities applicable to criminal proceedings, including unimpeded access to his or her legal adviser.

In the context of the subject matter of this handbook, these disciplinary proceedings and guidelines will primarily apply to serious corruption charges and will typically involve high-risk prisoners, such as those associated with organized crime. As mentioned in section 2.1, the above does not imply that it would be suitable to request criminal or disciplinary liability of a prisoner for conduct that—while within the factual scope of corruption—aims to secure his or her most basic needs (such as sufficient food or necessary health care) when confronted with systematic failures of the prison system.

Recommendations

- Prison management should acknowledge the practical challenges that prison staff face in the course of duty and support them in fulfilling their tasks in a professional manner. Such an approach, including decent working conditions and staff support systems, should be predicated on the fact that the majority of prison staff are honest and dedicated to their work.

- The above should be coupled with a zero-tolerance policy as regards staff misconduct and corruption, including the imposition of disciplinary measures and/or prosecution of all individuals engaged in corrupt practices as each case warrants.
- Prison administrations should establish dedicated prison intelligence functions or units in order to gather and analyse intelligence in prisons and make available sufficient resources for this task. In addition, the prison administration should consider establishing formal collaboration agreements with other agencies, including the police, and creating joint task forces.
- Complaints mechanisms for prisoners, in particular those of a confidential nature, are essential, as are other useful channels through which corruption in prisons can be reported. In addition, prison administrations should consider the establishment of various other measures to detect corruption, including those of a technological nature, whistle-blowing channels and protective measures for whistle-blowers, and corruption-reporting hotlines.
- Prison administrations must have in place effective internal disciplinary systems for the investigation of and follow-up to staff misconduct, governed by the principles of fairness and due process. Similarly, a disciplinary system should govern the imposition of restrictions and disciplinary sanctions on prisoners, in line with all minimum conditions outlined in the Nelson Mandela Rules.

6



Oversight mechanisms in prisons

United Nations Convention against Corruption

Article 10. Public reporting

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision making processes, where appropriate. Such measures may include, inter alia:

- (a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;
- (b) Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and
- (c) Publishing information, which may include periodic reports on the risks of corruption in its public administration.

In addition, article 13 of the United Nations Convention against Corruption requires States parties to take appropriate measures to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. The proposed measures include effective access to information.

The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)

Rule 83

1. There shall be a twofold system for regular inspections of prisons and penal services:
 - (a) Internal or administrative inspections conducted by the central prison administration;
 - (b) External inspections conducted by a body independent of the prison administration, which may include competent international or regional bodies.

The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) (continued)

2. In both cases, the objective of the inspection shall be to ensure that prisons are managed in accordance with existing laws, regulations, policies and procedures with a view to bring about the objectives of penal and corrections services, and that the rights of prisoners are protected.

Rules 84 and 85 specify the necessary powers/authority to be provided to the inspecting body and details about the content and time frame of the inspection reports.

Transparency and proactive disclosures of information

Transparency and proactive disclosure of information are key elements of combating corruption in any setting, including prisons. While some information, including corruption-related intelligence, may need to be restricted from public access, other information should be made available proactively, not only to prison staff and prisoners, but also to the general public.

In fact, in accordance with international human rights standards, and as referenced in article 13 of the United Nations Convention against Corruption, a restriction of information relating to corruption should only be made, if provided for by an unambiguous law, for a legitimate aim, and in respect of the principles of necessity and proportionality. Legitimate aims include the respect of rights or reputations of others and the protection of national security or *ordre public*, or of public health and morals.⁹⁴

In other words, most of what is known about the problem of corruption should be open for discussion. However, openness and transparency may risk being eschewed if the information publicly provided is negative. It is inevitable that there will be successes and failures in any anti-corruption strategy. If so, failure, or the perception of failure, should be analysed and discussed in order to take corrective action while successes should be publicized, maintained and built on.

Many prison administrations across the world publish their annual reports and other data online. Furthermore, an increasing number of States have adopted legislation on access to information which allows, within the above-mentioned limits, members of the public to request for further information.

Formal inspection mechanisms of prisons

Notwithstanding the importance of the above, the closed nature of prisons requires additional efforts to effectively counter the risk of abuse in custody, including corruption. Monitoring and inspection mechanisms constitute an essential safeguard in this regard and are indispensable to shedding a fresh and critical light on prison management and the treatment of prisoners.

The basic function of inspections, whether internal or external, is to contribute to a safe, secure and humane prison environment by (a) gaining a proper understanding of all relevant aspects of the prison, including structural causes of any problems identified; (b) comparing actual prison conditions, management and practices against relevant provisions in national

⁹⁴ See, for instance, UNODC, *Reporting on Corruption: A Resource Tool for Governments and Journalists* (2013), p. 34. Available at http://www.unodc.org/documents/corruption/Publications/2013/Resource_Tool_for_Governments_and_Journalists_COSP5_ebook.pdf.

and international law; and (c) submitting a report and recommendations on how the prison system and the treatment of prisoners could be improved. Through a constructive dialogue with national authorities, inspections can be a crucial tool in initiating change and reform with a view to helping prisons live up to minimum standards and minimizing the risk of corrupt practices.

While the nature of inspections carried out in prison varies from country to country, the Nelson Mandela Rules provide for a twofold system of regular inspections of prisons, to consist of both internal or administrative inspections conducted by the central prison administration as well as external inspections conducted by a body independent of the prison administration (see above).

6.1. Internal inspections

While the Nelson Mandela Rules clearly require internal or administrative inspections of prisons to be undertaken on a regular basis, the corresponding practice still varies widely at the international level. Some countries have well-developed administrative inspection systems that have been set up as part of public management structures, whereas others might only conduct audits regarding selected thematic issues, such as financial spending or compliance with national law and regulations, including respect for human rights.

The usual mandate of internal inspections typically consists of one (or a combination) of the following elements: (a) assessing compliance with national laws and regulations; (b) evaluating effectiveness and efficiency of a prison system in achieving its purpose; (c) inspecting financial management, technical issues and infrastructure; and/or (d) evaluating human resources management, including recruitment and training. Overall, internal inspection mechanisms tend to focus on technical aspects, on the work and routines of prison management and staff, and on compliance with national laws and regulations. As such, they are equally relevant to actual cases or risks of corruption in prisons.

The personnel of well-established internal inspection teams typically consist of officials from the central prison administration, such as staff from the ministry overseeing the prison administration. These may include lawyers, former prison staff, staff currently serving in the prison administration's headquarters, or other prison facilities and other subject-matter specialists. The work methodology will consist of prison visits and observations on the spot; accompanying prison staff in their daily work; reviews of relevant administrative documents; and interviews with prison management, regular staff and other relevant stakeholders. Detailed checklists may be used to ensure a unified approach.

The added value of internal inspection mechanisms lies in their insider knowledge and ability to raise certain questions particularly well because they are within the system (for example, an insider may better judge the proportionality of security and safety arrangements). At the same time, fundamental principles applicable to external inspections (see below in section 6.2.), such as confidential interviews with prisoners, for example, should not be applied in the course of an internal inspection due to, for instance, a potential lack of trust and risk of reprisals. It is therefore crucial to complement internal accountability schemes with external, independent oversight mechanisms.

For further details on a potential checklist tailored to internal inspection mechanisms, see the UNODC Handbook on Assessing Compliance with the Nelson Mandela Rules: A Checklist for internal inspection mechanisms.⁹⁵

⁹⁵ See UNODC (2017), *Handbook on Assessing Compliance with the Nelson Mandela Rules: A Checklist for Internal Inspection Mechanisms*. Available at https://www.unodc.org/documents/justice-and-prison-reform/UNODC_Checklist_-_Nelson_Mandela_Rules.pdf.

Example: Italy

In Italy, the Office for Inspection and Control of the Italian Prison Administration has the task of checking the management and the overall functioning of prisons with the main objective to increase the level of knowledge of the Head of the Department about each prison.

In routine inspections, the focus is on the operational and legal framework with the aim of providing a snapshot of trends and problematic aspects to allow for improvements at the systemic level instead of inspecting concrete cases or analysing individual workflows.

Source: Written submission by the Italian Department for Prison Administration during the research of material for this handbook.

Example: Thailand

In Thailand, alleged misconduct or corrupt behaviour by officers is investigated by internal inspectors. However, in addition, the Ethical Protection Office has been given the authority to investigate allegations of misconduct. Members of the public (including stakeholders, NGOs and private sector) may contact the department regarding an alleged misconduct by an officer through various channels such as the Red Box Post (a grievance submission system), the Director General's inbox and a dedicated hotline.

Source: 33rd Asian and Pacific Conference of Correctional Administrators, Conference Report, 2013, p.34.

6.2. External inspections

United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)

Rule 84

1. Inspectors shall have the authority:
 - (a) To access all information on the numbers of prisoners and places and locations of detention, as well as all information relevant to the treatment of prisoners, including their records and conditions of detention;
 - (b) To freely choose which prisons to visit, including by making unannounced visits at their own initiative, and which prisoners to interview;
 - (c) To conduct private and fully confidential interviews with prisoners and prison staff in the course of their visits;
 - (d) To make recommendations to the prison administration and other competent authorities.
2. External inspection teams shall be composed of qualified and experienced inspectors appointed by a competent authority and shall encompass healthcare professionals. Due regard shall be given to balanced gender representation.

Rule 85

1. Every inspection shall be followed by a written report to be submitted to the competent authority. Due consideration shall be given to making the reports of external inspections publicly available, excluding any personal data on prisoners unless they have given their explicit consent.

2. The prison administration or other competent authorities, as appropriate, shall indicate, within a reasonable time, whether they will implement the recommendations resulting from the external inspection.

The Nelson Mandela Rules and other international standards adopted in the past have consistently highlighted the need for a system of regular inspections independent of the authority responsible for administering prisons. Indeed, most jurisdictions around the world have adopted, or are moving towards adopting, a method of independent inspection for places of detention. While such systems have been primarily promoted and established with a view to effectively prevent torture and ill-treatment in custody, independent inspections are also relevant to detecting and addressing corrupt practices in prisons.

The authority which the Nelson Mandela Rules afford to inspectors (see rules 84 and 85 above) are far-reaching. Particularly noteworthy is the authority to undertake unannounced visits to prisons of their choice, to freely choose which prisoners and prison staff to interview and to do so in full confidentiality. Regarding the report resulting from external inspections, the Nelson Mandela Rules strongly suggest making these publicly available and require the prison administration to timely implement its recommendations.

Dedicated prison inspection bodies

The institutional mechanisms through which the inspection procedures outlined above are put into practice at national level differ considerably from country to country. In some jurisdictions, there are dedicated Prison Inspectorates providing independent scrutiny of prisons,⁹⁶ while in other jurisdictions, this responsibility is assumed by Human Rights Commissions,⁹⁷ Ombudsmen,⁹⁸ or Public or Human Rights Defender Offices.⁹⁹

In order to be fair and effective, independent inspections should be undertaken by a gender-balanced and multidisciplinary team that has proven professional experience in the field of criminal justice and includes health-care specialists.

Anti-corruption agencies might conduct system-checks to assess if the prison administration has put in place relevant preventive measures. Apart from this, anti-corruption agencies with a law enforcement mandate might conduct investigations upon receiving reports of corruption or other detection methods.

However, given that many of these anti-corruption bodies are still relatively new, little information is available on their concrete role in inspecting corruption in prisons and whether they are able to effectively safeguard the adherence to corruption prevention

⁹⁶ See, for example, Her Majesty's Chief Inspector of Prisons in the United Kingdom, who gets appointed by the British Justice Secretary from outside the prison service for a period of five years. The Chief Inspector, who is not operationally part of either the Prison Service or the Ministry of Justice, has the authority to conduct announced or unannounced visits to prisons, young offenders' institutions, police cells and immigration service detention centres. Importantly, the reports emanating from his or her inspections are not only delivered to the Justice Secretary, but are also made public and presented to Parliament. See <http://www.justiceinspectorates.gov.uk/hmiprisons/inspections/>.

⁹⁷ See, for example, the Prisoners and Detainees Rights Commission of the Kingdom of Bahrain, which was established in 2013 in order to inspect the prison conditions and the treatment of prisoners with a view to ensure that they are not subjected to torture or cruel, inhuman or degrading treatment. See <http://www.pdrc.bh/en/>.

⁹⁸ The Ombudsman in Norway, for example, is appointed by Parliament to, among other mandates, prevent torture and inhuman treatment in institutions by visiting facilities where people have been deprived of their liberty. See <https://www.sivilombudsmannen.no/en/>.

⁹⁹ See, for example, the Public Defender of Georgia, an independent constitutional institution that is entrusted with supervising the protection of human rights and freedoms in Georgia. In this capacity, it regularly checks the situation and treatment of prisoners and individuals whose liberty has been otherwise restricted, including those in psychiatric institutions, houses for older persons and orphanages. See <http://www.ombudsman.ge/en/>.

standards in the prison setting. While most existing inspection mechanisms do not have a specific focus on corruption, their mandates typically allow including the consideration of corruption in prisons as an important element of a wider analysis related to prison conditions and the treatment of prisoners.

Example: France's General Controller of Places of Deprivation of Liberty

France has established the office of the General Controller of Places of Deprivation of Liberty (Controleur général des lieux de privation de liberté - CGLPL) through the law n° 2007-1545 dated 30 October 2007 and its subsequent decree of application n°2008-246 dated 12 March 2008. In addition, the institution of Human Rights Defender (Défenseur des droits), equivalent to the ombudsman, also monitors prison conditions and standards.

Source: Report by the European Prison Observatory, Monica Aranda, (http://www.ub.edu/ospdh/sites/default/files/documents/national_monitoring_bodies_in_europe.pdf) which also provides a more general overview of national prison monitoring bodies in Europe.

Judicial or prosecutorial supervision

In some countries, judges may have a responsibility to ensure that prisons are managed according to the law and that prisoners are treated in line with their human dignity. In other countries, public prosecutors may be tasked with ensuring the legality (and conditions) of detention. The potential added value of judicial or prosecutorial supervision notwithstanding, care needs to be taken in practice to both request and effectively enable judges and prosecutors to give sufficient attention to these important aspects of their work.

Example: Supervisory offices within the judiciary in Italy

In Italy, article 69 of the Penitentiary Act declares that the supervisory offices that are part of the judicial system have effective powers to control the conditions in penal institutions. In fact, their task is so important that supervisory judges cannot be assigned to any other judicial functions.

A complementary monitoring is carried out by other stakeholders, such as the Bar Association and some agencies and associations that operate in support of the prisoners and the rehabilitative process. Finally, the Territorial Ombudsman for persons deprived of their liberty and the National Ombudsman have access to all sections and units in prisons and monitor the conditions of detention in order to prevent ill-treatment or situations of degrading or inhuman treatment or punishment.

Subject matter specific inspections

In many jurisdictions, specific aspects of prison management, such as health and hygiene, work safety or financial management are further subject to external oversight by related line ministries or other public entities, such as the Ministry of Health or public health bodies, the Ministry of Labour, the General Audit Institution, National Tenders Board or similar entities. Assigning a national entity that is already in charge of inspecting other public institutions, such as schools, hospitals or work places, the responsibility for inspecting in prisons is considered good practice with a view to applying equal standards in prisons.¹⁰⁰

¹⁰⁰ Regarding health in prisons, for example, Rule 35 of the Nelson Mandela Rules explicitly takes into account the involvement of a public health body for regular inspections.

International or regional prison inspection mechanisms

As noted in the introduction, there is a correlation between the levels of corruption in prison settings and the prevalence of torture and ill-treatment, making the prevention of corruption and the prevention of torture and ill-treatment interdependent processes.¹⁰¹

At the international level, the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment outlines a twofold inspection scheme. States that have ratified the Optional Protocol need to (a) designate a national body to become the country's "National Preventive Mechanism"; and (b) allow the United Nations Subcommittee on the Prevention of Torture to visit its places of detention.

At the regional level, the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment is a good practice example of an intergovernmental inspection mechanism that has exercised considerable influence on the improvement of prison conditions in countries belonging to the Council of Europe. In Africa, the Special Rapporteur on Prison Conditions in Africa, appointed by the African Commission on Human and People's Rights, also undertakes regular prison inspections at the national level and publicly reports on both challenges and good practices identified. For Latin America, this task is carried out by the Rapporteur on the Rights of Persons Deprived of Liberty, designated by the Inter-American Commission on Human Rights.

Finally, the International Committee of the Red Cross (ICRC), the oldest international mechanism for monitoring detention conditions, is active in more than 90 countries, where it conducts regular prison visits. In doing so, the ICRC seeks to bring a minimum of humanity to places of detention and to ensure that the dignity of detainees is systematically respected.

6.3. The role of other actors

Lawyers, paralegals and other legal advice providers

Lawyers, paralegals and other providers of legal advice, legal assistance and/or representation, including through mechanisms of legal aid can play an important role in preventing and addressing corruption in prison settings. Their services can cover anything from serving as a confidante to prisoners who wish to report incidents of bribery, to supporting prisoners in ensuring that their rights in the prison system are upheld.

The Nelson Mandela Rules include several provisions addressing prisoners' access to effective legal representation and aid "where the interests of justice so require and without payment by the untried prisoner if he or she does not have sufficient means to pay." The 2012 United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems state that access to legal aid should be provided for anyone who is detained, arrested, suspected of or charged with a criminal offence punishable by a term of imprisonment and does not have sufficient means to pay for a lawyer or where the interests of justice so require. They also emphasize legal aid should be provided at all stages of the criminal justice process, including the post-trial stage.

Access to legal assistance, representation and advice, including through mechanisms of legal aid, is a fundamental component of ensuring a fair, humane and efficient criminal

¹⁰¹ *Seventh Annual Report of the Subcommittee on Prevention of Torture* (see introduction).

justice system based on the rule of law. In many countries, arrest can result in detention for months, and sometimes years, without charge, a fair trial or a lawful conviction. Excessive detention can have negative effects both systematically and on the detainees, their families and communities. Many prisoners do not understand that they have rights, let alone how to realize those rights, including legal knowledge and support. They are consequently unable to argue that they are victimized in prison settings or not treated according to the rules and standards for facilities, nor can they argue for their release. Even if they do know that relevant legal criteria exist and apply in their case, they often lack the resources to arrange for seeing a lawyer. This perceived or real powerlessness can in turn make them vulnerable to corruption.

Providing prisoners with access to legal services, and when required, legal aid, helps ensure the fairness of conditions of imprisonment and enhances the likelihood of successful reintegration, and thereby reduces corruption risks. In particular, access to legal advice can help significantly reduce the length of time persons are held in pretrial detention, the number wrongful convictions, prison overcrowding and congestion in the courts, as well as rates of reoffending and victimization. Access to legal advice and, if applicable, legal aid for prisoners following their conviction in court is important to ensure that they are held in conformity with the law and relevant international standards and norms, and to guarantee that they are informed of their legal rights, including their right to make requests or complaints regarding their treatment. For those soon to be or already released from prison after serving their sentence, being able to obtain legal advice is important to support social reintegration into society and prevent reoffending. Legal advice can, for instance, play an important role in supporting recently released prisoners in observing the rules of their parole, in solving legal issues that may have arisen during time spent in prison, or in obtaining certificates and other documents that in some countries are linked to obtaining a work permit.

Lawyers, paralegals, and other legal advice providers visiting their clients in prison should pay attention to the problem of corruption and be mindful of how it may manifest itself in the prison setting.

Civil society organizations

Another important layer of what can be called “informal monitoring” is provided by civil society organizations that may support the delivery of various services for prisoners. In the course of their work, representatives of these organizations will interact with staff and come into regular contact with prisoners, thereby automatically be able to observe and spot signs of corruption and abuse:

There is an important level of informal scrutiny which exists in a prison where there is regular contact between the prison and community agencies. In situations where members of civil society come into the prison on a regular basis, there will be less likelihood of impropriety on the part of the prison administration and a greater likelihood that people in the community will understand what goes inside their prisons.¹⁰²

Importantly, and as opposed to formal inspection mechanisms, which will often identify failures only after they have occurred, the continuous presence of civil society representatives can have an important preventive function.

¹⁰² Andrew Coyle, *A Human Rights-Based Approach to Prison Management*, p. 121 (see section 1.4).

Some jurisdictions further operate so-called independent prison visitor programmes where volunteers from civil society visit prisons and provide often detailed formal and informal feedback on prison conditions. In order to leverage their potential in the context of preventing and fighting corruption in the prison system, the volunteer programmes should be integrated into any anti-corruption discussions and awareness-raising initiatives. In particular, volunteers should be trained not only on how to report wrongdoing when it is brought to their attention during their prison visits, but also receive guidance on what constitutes corruption and how it might manifest itself in a prison environment.

Example: Western Australia's Independent Prison Visitors

Independent Prison Visitors in Western Australia have five main interconnected functions when visiting prisons:

- To provide a safeguard for the well-being and rights of prisoners
- To provide information to prisoners concerning access to prison services, such as prisoner grievance procedures and information on prisoner and community support agencies
- To speak on behalf of prisoners, when asked, to senior prison officers and/or the Prison Superintendent
- To record any complaint made to him or her by a prisoner or prison officer
- To document and detail what happened during an independent visit

Independent Prison Visitors are appointed by the Minister for Justice to one of the 14 prisons in Western Australia for a period of two years. They seek volunteers from a wide cross section of the community and particularly want to encourage Aboriginal people and those from non-English speaking backgrounds to volunteer.

Source: https://www.correctiveservices.wa.gov.au/_files/prisons/adult-custodial-rules/policy-directives/pd-39.pdf

While prison staff may initially consider civil society representatives as “troublemakers” who do not truly understand the operational nature of their work, experience suggests that positive change in prison management is more likely to be effective when prisons and civil society work constructively together.

In particular, civil society representatives can provide expertise, point out problems, suggest solutions, share international practices, and monitor change processes to contribute to their sustainability.¹⁰³ In fact, civil society organizations and prison authorities should strive towards a constructive collaboration within the framework of their different mandates and, at times, potentially opposing viewpoints. Prison authorities should acknowledge the added value of civil society organization participation, while civil society organizations should acknowledge that the majority of prison staff are hard-working, honest and genuinely interested in creating better and safer prisons.

Faith-based organizations

For many prisoners, religious faith in general, and the actual practice of their religion in the course of incarceration, can be highly supportive and an important element of

¹⁰³ Penal Reform International, *Institutional Culture in Detention: A Framework for Preventive Monitoring*, a Detention Monitoring Tool Resource, 2nd edition (2015). The second edition incorporates the 2015 revised Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). First published in 2013. Available at <http://www.penalreform.org/wp-content/uploads/2016/01/culture-in-detention-2nd-ed-v6.pdf>.

their rehabilitation. Access to a qualified religious representative for services or pastoral visits as well as to religious material is also firmly anchored in the Nelson Mandela Rules 65 and 66. Faith-based organizations are often active in prison settings, addressing a wide range of issues and providing educational, material and spiritual support for prisoners. Like civil society organizations, faith-based organizations working in prisons can also serve as important interlocutors in the context of corruption prevention.

The families of prisoners

Finally, the families of prisoners have an important role to play in the context of prisons. While in some cases their influence can be negative, in particular when they are part of a criminal network or supporting a violent extremist ideology that led to the prisoner's offence, families will more often than not be a key part of the prisoner's rehabilitation and subsequent reintegration into society. A job, somewhere to live and a functioning supportive relationship are key components in reducing recidivism, and families are likely to be the main catalysts for supporting all of these components. The important role of prisoners' families should also be leveraged in preventing corruption in the prison setting.

Example: Awareness-raising campaign for prisoners and families in Panama

A first step in the fight against a culture favourable to corruption is the development and conduct of awareness-raising campaigns warning of the existence of the problem. In 2012, the Penitentiary Service of Panama launched the campaign "No corruption in the prison system" to make detainees and their families aware that no service or right provided by Act No. 55 involves any cost. Act No. 55, among others, provides a number of rights and benefits to people deprived of liberty in the country.

Source: UNODC ROPAN Technical Advisory Opinion No. 004/2013 addressed to the National Authority for Transparency and Access to Information and the General Office of the Penitentiary System of the Republic of Panama.

http://www.unodc.org/documents/ropan/TechnicalConsultativeOpinions2013/Opinion_4/Corruption_in_the_context_of_the_Panamanian_Prison_System_2013_004.pdf

However, families may also become vulnerable to corrupt activities. If payment for goods or services in prison is sought, then it is usually the family that has to find and provide the money. In cases where a prisoner uses illicit drugs while in prison, it is very often the family that has to find the money and/or obtain the illicit substance in the community. In some cases, families may be threatened, bribed or generally coerced into introducing drugs into the prison against their will. Family members can find themselves arrested if caught, causing a vicious cycle of abuse and corruption. Supporting and engaging closely with detainee families can therefore have tremendous benefits for detainees and anti-corruption efforts.

Disseminating information about the existing rules and procedure to families, including how to report corruption, can be done through awareness-raising campaigns or through dedicated civil society organizations, such as the Prisoners Advice and Care Trust (PACT) in the United Kingdom.¹⁰⁴

¹⁰⁴ See <http://www.prisonadvice.org.uk/about-us/our-goals-and-values>.

Prisoner councils

In some countries, prisoners may contribute to prison management in the form of prisoner councils. These councils have been shown to have positive effects on the proper running of prisons. Indeed, it can be argued that prisoner councils have the wider benefit of minimizing the dehumanizing effects of imprisonment. This is because prison inevitably takes away a significant measure of autonomy and freedom of choice from the individual, including and appropriately so, those choices that might endanger the public. However, consulting prisoners and allowing them to influence certain aspects of their incarceration can have a very positive effect on their rehabilitation prospects and foster a positive staff-prisoner relationship in which prison staff acquire better knowledge of the prisoners and their needs.

Prisoner councils may also play an important role in employing anti-corruption strategies in a prison. Prisoner councils may promulgate the principle that prisoners play a key part in anti-corruption efforts and that the role of each individual prisoner is essential to its success.

In this context, it is important to note that consulting with prisoners is not the same as devolving power to them. Consultation enables the views of all to be heard and strengthens openness and transparency. Great care needs to be taken, however, to not slide towards abdicating responsibilities that need to remain in the hands of prison staff and managers. When the latter happens, corruption is inevitable. For instance, placing prisoners in charge of decisions directly concerning other prisoners, especially in cases where this involves disciplinary capacity, is an abdication of responsibility by prison staff that may give rise to abuse and corruption. In fact, such inappropriate abdication of responsibility may in itself be a failure to comply with their duty as prison officers.

That said, using carefully selected prisoners to support key aspects of the prison regime is not only advantageous, but is also likely to contribute to a very positive culture within a prison. There are many good examples of prisoners teaching others to read and write or other skills that may be important for their reintegration once they leave the prison. Prisoners may also play an important part in supporting those at risk of suicide. In fact, the proper involvement of prisoners and prisoner councils in aspects of the day-to-day running of prisons is an essential part of a well-managed staff-prisoner relationship continuum.

Examples: Prisoner councils

Denmark: Co-determination for prisoners

In Denmark, the Sentences Enforcement Act requires that spokespersons for the prison wings must be elected by “written, secret ballot jointly observed by the institution and representatives of the inmates ... The institution shall take the initiative for regular discussions with elected spokesmen.”

Canada: Prisoners as informed participants

The Canadian Corrections and Conditional Release Act of 1993 states that “[t]he Service shall provide inmates with the opportunity to contribute to decisions of the Service affecting the inmate population as a whole ... having inmates involved in decisions has been in practice for many years and is intrinsic to the culture of the Service.”

Examples: Prisoner councils (continued)

New Zealand: Maori Focus Units

Prisoner involvement in New Zealand's penal system is centred on Maori Focus Units. These are therapeutic communities where offenders address their attitudes and behaviour based on Maori values and discipline. Each unit has a council, known as a Runanga, which acts to ensure clear communication between inmates, staff and management.

Source: Enver Solomon and Kimmett Edgar (2004), *Having Their Say: The work of prisoner councils*. http://www.prisonreformtrust.org.uk/uploads/documents/HAVING_THEIR_SAY.pdf.

Trade unions and professional associations

In many jurisdictions, prison officers may be organized in, and represented by, trade unions and professional associations. Where such unions and professional associations exist, it is important to share and discuss relevant corruption risk mitigation measures with them. For example, they should be briefed on whistle-blowing policies and the reporting channels open to them. Trade unions and professional associations may also be formally involved in developing codes of conduct or have a role to play in disciplinary proceedings. Their buy-in and involvement in the respective anti-corruption strategies will therefore be important to secure. They can also provide a platform for raising awareness or training on corruption risks in the prisons setting.

External staff providing services within prisons, such as teachers and doctors, will have similar representative organizations. To the extent feasible, their trade unions and professional associations should also be brought on board as part of the wider anti-corruption strategy in prison.

Recommendations

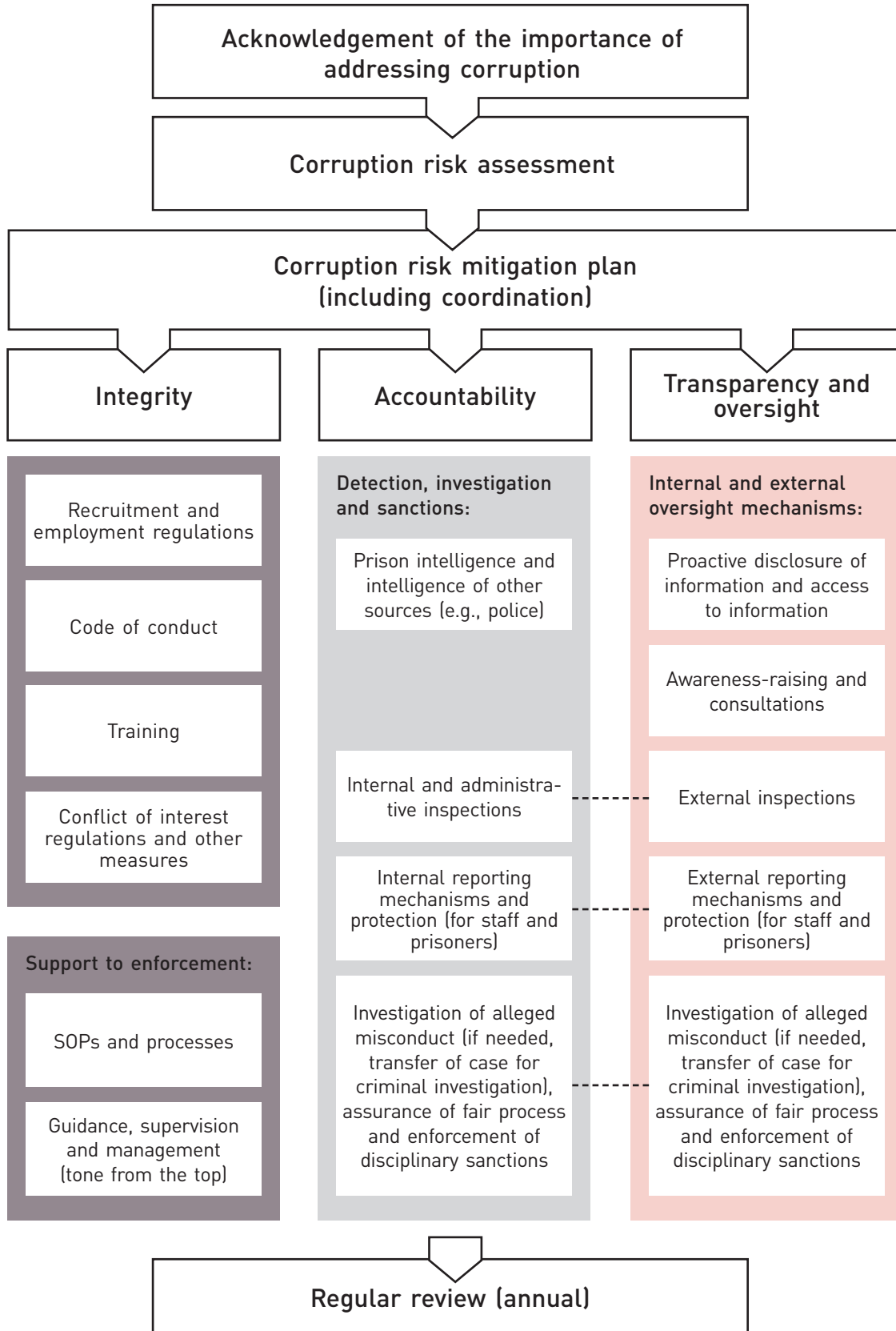
- The prison administration, including heads of prisons and senior management, should be proactive in their dissemination of information on the challenge of corruption in prisons and strive for transparency while respecting classified information and the confidentiality of classified personal data.
- The prison administration should engage in raising the awareness of staff, prisoners, family members and the wider public about the rights of prisoners and the rules and regulations governing prisons, with a focus on anti-corruption aspects.
- The prison administration should be subject to a twofold system of regular inspections of their prisons, including internal inspections to be undertaken by the central prison administration as well as external inspections to be undertaken by a body independent of the prison administration.
- National anti-corruption bodies should, within their powers and availability of means, support anti-corruption measures implemented in the prison context and provide relevant guidance.
- The prison administration and prison managers should ensure that prisoners have access to legal advice and, when relevant, legal aid.
- The prison administration and prison managers should cooperate with civil society organizations in the prevention of and the fight against corruption in prisons, in particular those organizations already providing services for prisoners.

ANNEX

ANNEX I

Core anti-corruption building blocks

(simplified, non-exclusive visualisation)







UNODC

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