

CORRUPTION IN PRISONS THROUGH THE LENS OF INTERNATIONAL LAW: ENFORCEMENT CHALLENGES

Chornenka Anastasia

DOI: <https://doi.org/10.61345/1339-7915.2025.3.2>

Annotation. Corruption in penitentiary institutions undermines justice, violates human rights, and fosters crime both within and beyond prisons, posing a serious challenge to international law. This article analyzes international legal mechanisms to combat prison corruption, including key conventions, soft-law recommendations, and European Court of Human Rights practice. It identifies major gaps such as the absence of specialized standards tailored to penitentiary specifics and insufficient monitoring and control. The author advocates for a specialized international instrument mandating regular independent inspections, whistleblower protection, and clear anti-corruption standards to strengthen transparency, accountability, and the effectiveness of the penal system.

Key words: prison corruption, international law, anti-corruption mechanisms, human rights, penitentiary system, international standards, corruption prevention, anti-corruption efforts.

1. Introduction.

Corruption in the penitentiary system is one of the most complex issues among other aspects of anti-corruption efforts. The specific features of correctional facilities—their closed nature, inmates' dependence on staff, and limited external oversight—create conditions for various corrupt practices such as bribery, smuggling, and abuse of power. These phenomena undermine not only the rule of law but also international human rights standards. The absence of clear and detailed international legal norms specifically aimed at combating corruption in places of detention makes this problem particularly relevant.

2. Analysis of scientific publications.

Before examining specific international legal mechanisms for combating corruption in penitentiary institutions, it is important to outline its specifics. In the closed prison environment, characterized by low transparency and limited public control, specific forms of corruption emerge [8]. These include not only traditional bribery. In the book "Tackling Correctional Corruption: An Integrity Promoting Approach," authors Andrew Goldsmith, Mark Halsey, and Sophie Stout [6] analyze various forms of corruption in prisons, including:

Inappropriate relationships [19] between prison staff and inmates, including personal, romantic, or intimate relationships that go beyond professional boundaries. Such relationships violate ethical and professional standards, create conflicts of interest, and can lead to favoritism or facilitation of criminal activity.

Contraband [5] trafficking involves the illegal importation, distribution, and sale of prohibited items such as drugs, weapons, mobile phones, or other forbidden items. This often occurs with the assistance of corrupt employees.

Abuse of power [18] includes improper use of official authority, excessive or unjustified use of physical force, psychological pressure, or cruel treatment of prisoners.

Unauthorized access, disclosure, or manipulation of confidential information about inmates for personal gain or to harm others—known as information abuse. This undermines trust in the system and can have legal consequences.

Fraud and abuse during the procurement of goods and services for the prison, including obtaining improper financial benefits, price inflation, or misappropriation of resources.

Accepting bribes from inmates or their families in exchange for special privileges, regime relaxation, or other illegal services. Extortion may include threats or use of force to obtain money or services.

Favoritism (nepotism or cronyism) in hiring, appointments, or promotions among prison staff based on family or personal connections rather than professional qualifications. This can lead to the employment of unqualified individuals and reduced institutional effectiveness.

Using official powers to obtain personal benefits not directly related to inmates.

Falsification of official documents, reports, or records to conceal misconduct, improve statistical indicators, or avoid accountability.

The Institute for Criminal Policy Research (ICPR), a research institution specializing in criminal policy, justice systems, and penitentiary issues, is known for its thorough research in criminal justice, including analysis of corruption in penitentiary institutions. In its Reference Handbook No. 6, "Bringing Prisons into Compliance with the Law" [7], it classifies prison corruption according to the level of interaction between various subjects of the penitentiary system: • Corrupt interactions between inmates and prison staff; • Corruption schemes between prison administration and inmates; • Corrupt connections with external individuals or groups; • Abuse of power by prison administration in procurement and supply; • Corrupt actions by judicial officials.

Identifying and systematizing these manifestations is necessary to understand which international mechanisms will be effective for their prevention and elimination.

In international legal doctrine, corruption is traditionally defined as abuse of power or official position to obtain improper advantage. However, the specifics of the penitentiary system require a more detailed definition. In the context of prisons, corruption includes misconduct by penitentiary staff who use their official position to illegally obtain benefits from inmates or third parties, as well as any other forms of abuse of authority that contradict international standards for the treatment of prisoners.

Penitentiary institutions, such as prisons, detention centers, and specialized closed psychiatric facilities, are particularly vulnerable to corruption risks due to their closed nature, limited public oversight, and inmates' complete dependence on administration [8]. An additional factor that increases corruption risks is the low socio-economic status of penitentiary staff, which reduces opportunities for recruiting qualified personnel and increases the likelihood of abuse of official position.

In my opinion, the complex of institutional factors, particularly the closed nature of penitentiary institutions and the low socio-economic status of staff, creates systemic preconditions for the formation of persistent corrupt practices, requiring the implementation of comprehensive anti-corruption mechanisms that take into account the specific functioning of penitentiary institutions.

Scientific research emphasizes that the spread of corruption among prison staff is associated with a number of interconnected internal and external factors. Jane Smith, in her study of corruption factors among prison employees, focuses on the role of organizational culture and insufficient internal control. Michael Johnson emphasizes economic factors, particularly low wages and weak control mechanisms, as causes of corruption. Anna Brown, examining the legal aspect of the issue, notes the insufficient effectiveness of existing legal mechanisms and proposes specific directions for improving anti-corruption legislation.

In the Ukrainian context, Iryna Mykytas made a significant contribution by identifying the main causes and consequences of corruption in the State Criminal-Executive Service of Ukraine and proposing practical recommendations for improving anti-corruption policy in this area.

A significant contribution to the study of corruption schemes and their legal qualification has been made by Mykola Havronuk and Ruslan Shekhavtsov, who in their work [2] provide a detailed analysis of various corruption schemes, including those that may occur in penitentiary institutions. The authors examine issues of criminal law qualification of corruption offenses and propose investigation methodologies, which directly relates to combating corruption in the penitentiary system.

Comparing these scientific studies with previously outlined factors of corruption in the penitentiary system, their complementary nature is evident. Smith's work expands understanding of institutional factors by identifying organizational culture as an independent element of corruption risks; Johnson's research deepens the economic aspect, specifying the impact of low wages on corrupt practices; Brown's legal analysis complements understanding of systemic gaps in legal mechanisms against corruption. Mykytas's work is particularly valuable in the context of national specifics, allowing extrapolation of international experience to Ukrainian realities and identifying specific characteristics of corruption in the domestic penitentiary system.

For Ukraine, this problem is especially relevant given the state's European integration commitments and the need to align national legislation with international standards, particularly regarding anti-corruption and human rights protection in detention facilities. Currently, Ukraine is implementing comprehensive anti-corruption reforms, but the penitentiary system remains one of the least reformed areas of public administration. Considering recommendations from international organizations (Council of Europe, GRECO, CPT) regarding the need to strengthen independent control and transparency of penitentiary institutions, improving the regulatory framework and applying modern international standards is strategically important both for Ukraine's international obligations and for effectively protecting the rights of prisoners and staff.

3. The purpose of the work.

Therefore, this article aims to analyze existing international documents, identify gaps in their application, and develop recommendations for improving legal regulation in this area.

The novelty of this research lies in a comprehensive analysis of specific corruption risks in penitentiary institutions with the subsequent development of concrete recommendations for international legal responses. Unlike existing general approaches, the proposed mechanisms take into account the peculiarities of the closed prison environment and the need for specialized measures for monitoring and sanctioning violations, which have not been sufficiently detailed in international normative documents.

4. Presenting main material.

The legal framework for combating corruption in penitentiary institutions is based on several international conventions and recommendation documents that establish general standards and principles aimed at preventing corruption.

One fundamental document is the UN Convention against Corruption (UNCAC, 2003) [14], which establishes obligations for member states regarding criminalization of corrupt acts, ensuring transparency of government bodies, integrity of public officials, and developing international cooperation in fighting corruption. Article 8 emphasizes the need to ensure integrity of public institution staff, directly applicable to penitentiary employees. Article 10 emphasizes the need for transparency and public control mechanisms applicable to penitentiary institution management.

The UN Convention against Transnational Organized Crime (UNTOC, 2000) [12] is also important. While not containing specialized norms for penitentiary institutions, its provisions like Article 10 (criminalization of bribery in the public sector) and Article 31 (strengthening law enforcement) form the basis for specialized anti-corruption mechanisms in prisons, especially when such corruption is linked to organized crime.

Another significant document is the UN Convention against Torture (UNCAT, 1984) [10] and its Optional Protocol (OPCAT, 2002) [13], which obligate states to create National Preventive Mechanisms (NPMs) for regular independent monitoring of detention facilities. Such monitoring helps identify both human rights violations and corruption risks related to bribery for detention conditions or illegal services to inmates.

At the European regional level, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1987) and the European Committee for the Prevention of

Torture (CPT) play significant roles. This body, when inspecting detention conditions, addresses corruption risks and systemic problems in penitentiary management. The CPT has repeatedly noted that weak control and lack of transparency in correctional facility management create favorable conditions for corruption schemes.

Important roles in shaping international standards for prisoner treatment are also played by recommendation documents such as: • Minimum Standard Rules for the Treatment of Prisoners (Mandela Rules, 2015) [16]; • European Prison Rules (2006, amended 2020) [1]; • Tokyo Rules (1990) [11]; • Bangkok Rules (2010) [15].

These acts [17] define international standards regarding ethical requirements for penitentiary staff, procedural transparency, financial control, and independent monitoring of detention facilities. However, their effectiveness remains limited as they are primarily recommendatory and do not provide clear accountability mechanisms for violations of established standards.

Despite numerous international documents defining general anti-corruption principles, there remains an obvious lack of specificity regarding penitentiary institutions. International acts (such as the UN Convention against Corruption and the UN Convention against Transnational Organized Crime) are general in nature and do not contain specialized norms or detailed recommendations regarding anti-corruption specifics in prisons. Similarly, recommendation documents like the Mandela Rules or the European Prison Rules do not establish clear legal obligations and enforcement mechanisms for states.

The European Court of Human Rights (ECHR) plays a significant role in establishing standards for combating corruption in the penitentiary system. In “Kehayov v. Bulgaria” (No. 18319/04) [3], the ECHR emphasized states’ need to provide independent and effective mechanisms for investigating abuses by penitentiary staff, particularly in cases of ill-treatment and corruption offenses. In “Adomaitis v. Lithuania” (No. 14833/18) [4], the Court examined the dismissal of a correctional facility head suspected of receiving improper benefits for improving prisoner detention conditions, emphasizing the importance of procedural guarantees and proper investigation of corruption offenses. Such ECHR practice establishes standards that guide Council of Europe member states in improving national legislation.

Another significant shortcoming is the weakness of international mechanisms for monitoring the implementation of anti-corruption standards in penitentiary institutions. Monitoring procedures by international organizations such as the CPT, GRECO, and UNODC [9] are primarily oriented toward general human rights monitoring, with prison anti-corruption issues considered only tangentially or indirectly. They do not provide regular, systematic, and in-depth control specifically for corruption risks in penitentiary institutions.

This creates an urgent need to develop a specialized international document, such as an additional protocol to the UN Convention against Corruption or a separate international convention on combating corruption in penitentiary institutions. Such an act should be developed with direct participation of relevant international organizations to incorporate existing experience and best practices. The document should provide for specific measures including regular monitoring inspections, an international reporting system, cooperation mechanisms, and mandatory implementation in national legal systems.

Ukrainian practice confirms the relevance of these issues. For example, the case of the former head of the Odessa Detention Center, convicted in 2021 for accepting bribes in exchange for creating privileged detention conditions, clearly demonstrated typical corruption risks in the Ukrainian penitentiary system. This case was highlighted in reports by international monitoring organizations such as GRECO and CPT, which recommended Ukraine strengthen independent control over detention facilities and increase management transparency.

Additional problems include insufficient interaction between supervisory bodies and criminal justice authorities at the national level, lack of international legally binding sanctions for standards violations, and inadequate protection for whistleblowers in the penitentiary system. Although international recommendations provide for safe channels for reporting corruption, in practice such channels are poorly organized, and whistleblowers often face persecution or reprisals. There is also a lack of comprehensive programs to form an anti-corruption culture among staff and inmates.

Analysis of the UN Convention against Transnational Organized Crime (UNTOC) demonstrates that while it contains general anti-corruption measures, its scope regarding corruption in correctional facilities is insufficiently developed. Article 10 requires member states to criminalize bribery in the public sector but contains no special provisions for detention facilities. Article 31 emphasizes the need to strengthen law enforcement and crime prevention measures, which could serve as a basis for developing specific anti-corruption mechanisms in prisons.

5. Conclusions.

The analysis of international legal mechanisms for combating corruption in penitentiary institutions has revealed significant gaps in current international acts. The problem remains the absence of specialized international norms that would account for the specifics of the penitentiary system and offer concrete mechanisms for monitoring compliance with anti-corruption standards in places of detention. The general provisions of the UN Convention against Corruption and other international documents are insufficient for effectively overcoming specific forms of corruption in closed institutions, such as smuggling, abuse of power, or staff bribery.

At the same time, international organizations play an important role in drawing attention to corruption risks in places of detention, particularly the Council of Europe (through the activities of CPT and GRECO) and the United Nations Office on Drugs and Crime (UNODC). However, their activities do not provide systematic and regular monitoring specifically of corruption manifestations, which limits the effectiveness of international control.

Given the identified shortcomings of existing international legal mechanisms, it is necessary to develop a specialized protocol to the UN Convention against Corruption that would establish clear obligations for states regarding the fight against corruption specifically in penitentiary institutions. Such a document should define specific monitoring criteria, provide for regular independent inspections, and sanctions for non-compliance with standards. Special attention should be paid to creating effective protection mechanisms for whistleblowers of corruption in the penitentiary system, taking into account the increased risks of persecution and pressure in closed institutions.

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Anastasia Chornenka,
Commissioner for Anti-Corruption / Leading Legal Specialist,
State Enterprise «Ukrainian Special Systems» (Kyiv, Ukraine)
Email: Anastasia.chornenka@gmail.com
ORCID: 0009-0007-5951-1576