



Promoting fair and
effective criminal justice

Oral statement to the thirteenth session of the Human Rights Council
Advisory Committee

12 August 2014

Human rights and corruption in criminal justice systems

Penal Reform International welcomes the opportunity to make a statement in relation to the Committee's report on the issue of the negative impact of corruption on the enjoyment of human rights.¹

Corruption is a prevalent issue within the area of criminal justice, including links between torture and corruption, and PRI therefore supports the Resolution of the Human Rights Council initiating the Advisory Committee's research to address the impact of corruption on human rights. We would like to submit the following observations:

1. While UN efforts on fighting corruption and working towards the realisation of human rights are well-established and multi-faceted, the link between the two areas has not yet sufficiently been explored or addressed. In its recommendations to the Council we encourage an **inter-agency approach**, particularly with the UN Office on Drugs and Crime, as the guardian of the UN Convention against Corruption. An inter-agency approach would ensure cross-fertilisation between human rights and corruption experts.
2. Welcoming the conclusion in the Committee's Progress report (A/HRC/26/42) that marginalised groups are particularly affected by corruption, we note that **persons in conflict with the law and/or deprived of their liberty are particularly vulnerable to violations of their right to liberty and torture with a link to corruption**.

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

Corruption may act in a number of ways at the trial stage. PRI's research in East Africa found that some sentencers may be reluctant to impose community service as an alternative to imprisonment because it will be assumed that they have received a gift of some kind.²

¹ Pursuant to the Human Rights Council's Resolution 23/9 adopted on 13 June 2013 which requested the Advisory Committee to submit a research-based report on the issue of the negative impact of corruption on the enjoyment of human rights, and to make recommendations on how the Council and its subsidiary bodies should consider this issue.

² PRI, Alternatives to imprisonment in East Africa: trends and challenges, 2012

Inside detention facilities corruption can result in the denial of basic necessities such as hygiene items, healthcare, food and access to visits from legal representation or family and friends. Some prisoners may be forced to perform 'sexual favours' in exchange for access to provisions. For example:

- In Yemen, a study found that guards were impregnating female prisoners and marrying them to men who paid bribes to the guards.³
 - In Tunisia, it was reported by a former prisoner that inmates had to pay the prison officers money or cigarettes to shower or see the doctor.⁴
 - It was reported that in Zimbabwe thirty government officials were suspended for allegedly stealing \$700,000 that was meant to cover daily expenses of prisoners including for food. The report stated that in 2013, at least 100 prisoners died from malnutrition.⁵
3. The link between human rights violations as a result of corruption and the **rule of law** is a particularly strong one. In criminal justice systems persons deprived of their liberty rely on government institutes, or the private companies they contract, to provide for their basic needs and protection from violence. As well prisoners may have limited ability to seek access to justice when their human rights have been violated because of corrupt systems.
 4. There is a strong link also between **torture and corruption**. Corruption and torture exist under the same conditions. Where there is a lack of transparency, accountability, and a culture of impunity, there is an increased likelihood of encountering these phenomena. Torture provides opportunities for corruption and can be used as a tool for corruption. Vice versa, corruption could lay the foundations for torture and ill-treatment in places of detention.

These links have been recognised by the Special Rapporteur on Torture who emphasised that 'Corrupt and malfunctioning criminal justice systems are a root cause of torture and ill-treatment of detainees'⁶ and the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment explored the relationship between torture prevention and corruption in their seventh annual report from March this year.⁷

These links and possibilities for reducing these occurrences are the subject of a research project that the Centre for the Study of Corruption at the University of Sussex is undertaking, in cooperation with PRI and Transparency International. The research will be published in 2014.

PRI hopes that these observations prove useful for the Committees' work on this timely and important initiative. We look forward to reading the Committee's report. Thank you for your attention.

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³ Special Rapporteur on violence against women, its causes and consequences, 'Pathways to, conditions and consequences of incarceration for women', 21 August 2013, UN Doc. A/68/340, para. 37, Footnote 62

⁴ *Tunisian prison conditions still require improvement after revolution*, 23 April 2014, available at <www.thetunisian.com/2014/04/tunisian-prison-conditions-still-require-improvement-after-revolution-37930/>, accessed 22 July 2014>. The article reports on the OHCHR report 'The situation of prisons in Tunisia between international standards and reality' (April 2014)

⁵ *Zimbabwe: Government officials steal \$700,000 from starving prison inmates*, 14 April 2014, available at <<http://allafrica.com/stories/201404150129.html?viewall=1>>, accessed 22 July 2014>

⁶ See <www.unodc.org/unodc/en/frontpage/un-human-rights-rapporteur-denounces-torture.html>, accessed 24 July 2014>

⁷ UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, seventh annual report, 20 March 2014, CAT/C/52/2