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# THE IMPORTANCE OF PREVENTING CORRUPTION AMONG EMPLOYEES OF PENITENTIARY INSTITUTIONS

Second Edition



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**THE IMPORTANCE OF PREVENTING CORRUPTION AMONG EMPLOYEES OF PENITENTIARY INSTITUTIONS**  
**Second Edition**

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## THE IMPORTANCE OF PREVENTING CORRUPTION AMONG EMPLOYEES OF PENITENTIARY INSTITUTIONS (PART 2)

Review of the practice of Kazakhstani prisons, the best world practices and practical recommendations for the prevention of corruption in the penal system.

Transforming our world: the 2030 Agenda for Sustainable Development (adopted by the UN General Assembly Resolution on September 25, 2015)

Goal 16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels

16.5 Substantially reduce corruption and bribery in all its forms;

16.6 Develop effective, accountable and transparent institutions at all levels;

## INTRODUCTION

This publication is a continuation of the expert work “The Importance of Preventing Corruption among Penitentiary Institutions”. The first part of the report included: a brief description of the penal system of Kazakhstan, corruption risks in the activities of penitentiary institutions and the concurrent factors, statutory regulations from national and international legislation, references to special literature.

Corruption risks in the activity of the administration of penitentiary institutions in resolving the issues of the encouragement and punishment of convicts were disclosed in detail. At the same time, taking into consideration the world best practices, specific recommendations were proposed to eliminate the conditions for abuses in these matters.

In this publication, corruption risks will be analyzed in terms of penitentiary institutions in addressing the following issues:

- Determination of the behavior degrees of convicts;
- Their transfer within the institution from one confinement condition to another;
- Granting longer visiting privileges to convicts;
- Changing the institution for a convict for serving his/ her sentence.

As noted in the first part of this work, high corruption risks are hidden in the activities of penitentiary institutions when addressing these issues.

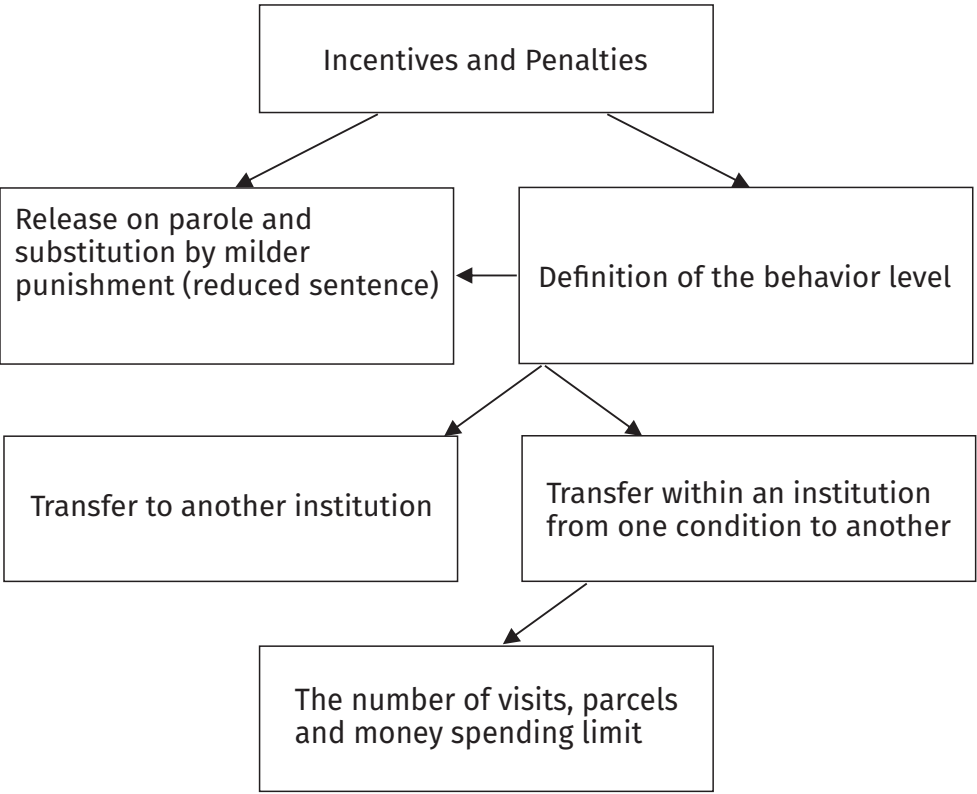
1. DETERMINATION OF THE DEGREE OF CONVICTS' BEHAVIOR

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

Rule 95  
Systems of privileges appropriate for the different classes of prisoners and the different methods of treatment shall be established at every prison, in order to encourage good conduct, develop a sense of responsibility and secure the interest and cooperation of prisoners in their treatment.

In penitentiary institutions in Kazakhstan, as in many prisons around the world, a system for assessing prisoners' behavior has been legislated. This system is designed to individualize their punishment and provides for changing the parameters of benefits and restrictions depending on the behavior.

The internal interrelationships of the system elements are schematically shown as follows:



As can be seen from the scheme, one of the elements of the system for assessing the behavior of convicts is to determine the degree of their behavior. According to article 95 of the Penal Code of the Republic of Kazakhstan (hereinafter referred to as

the PC), the assessment of their behavior is determined in accordance with a 6-level scale, which provides for 3 positive and 3 negative degrees. These degrees of convicts' behavior are determined on the basis of the following criteria:

Positive Behavior Degrees		
1	2	3
If there is at least one incentive and no penalties for three months or more from the date of award of the latest incentive	In the presence of the first positive degree of behavior, membership in the voluntary organization of convicts and no penalties for six months or more from the date of award of the first positive degree of behavior	In the presence of the second positive degree of behavior, membership in the voluntary organization of convicts and no penalties for one year or more from the date of award of the second positive degree of behavior

Negative Behavior Degrees		
1	2	3
In case of recognizing by the offender of the established order of serving punishment	In case of recognizing by the regular offender of the established order of serving punishment	In case of recognizing by the worst offender of the established order of serving punishment

The degree of behavior of a convict is established by the decision of the head of the institution on the basis of the materials provided by the commission of the institution, characterizing his/ her behavior. The establishment of degrees of behavior is extremely important for convicts, since such degrees are the basis for:  
1) transfer them to another institution (with more or less strict regimen);  
2) change in the conditions of serving punishment within the institution;  
3) expanding their rights or establishing the right restrictions.

In general, the current Penal Code of Kazakhstan effective since 2015 is quite clear and detailed in regulating the criteria for determining a certain degree of behavior of convicts, which was lacking by the previous legislation. At present, there is no problem in distinguishing one degree of behavior from another.

However, the problem is in the tools for

assessing the behavior of prisoners. So, in the Law (art. 95, the Penal Code) the following tools are provided for:  
- compliance with internal rules of conduct of institutions;  
- attitude towards work and study;  
- participation in educational activities;  
- participation in programs aimed at social and legal assistance to convicts;  
- membership in the voluntary organization of convicts;  
- taking measures to recover the damage caused by the crime.

As the analysis of the practice of places of deprivation of liberty has shown, such an instrument as attitude towards work does not apply to the majority of convicts because of the small number of working convicts.

It should be noted that in this issue there is a significant distortion of statistics. convicts worked in penitentiary institutions at the



end of 2016. In fact, this figure was not calculated based on their total number, but on the number of able-bodied persons.

In fact, in the institutions of the penal system, about 12.5 thousand people work in paid jobs, which is about 1/3 of the total number of prisoners in the country. But, and this figure does not reflect the real picture, since among them there are a lot of those who work half-days. Besides, temporary or one-time work is practiced, while several days of work are reflected in monthly reports.

As a result, artificially created favorable statistics conceals one of the main problems of the modern Kazakhstani penitentiary system, that is mass unemployment of prisoners, which inevitably accustoms them to dependency and entails their further degradation.

This problem synchronically reduces the effectiveness of another tool for assessing the behavior of convicts, namely, taking measures to compensate for the harm caused by the crime. Most cases of compensation for damages by convicts occur before the court's consideration of questions about possible parole or replacement of the unserved part of the deprivation of liberty with a milder form of punishment. As a rule, the damage is not compensated by the convict himself / herself, but by his/ her close relatives. In such cases, the instrument in question is not applicable at all.

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

**Rule 94**  
*As soon as possible after admission and after a study of the personality of each prisoner with a sentence of suitable length, a programme of treatment shall be prepared for him or her in the light of the knowledge obtained about his or her individual needs, capacities and dispositions.*

Another weakness of the system of assessing the behavior of convicts is the lack of such a tool as individual programs for their re-socialization. Instead, employees of institutions in accordance with the old Soviet practice make up an individual plan for educational work, which contains activities to train mainly the prisoner's skills to lead a prison life.

The program of re-socialization is a relatively new concept for Kazakhstani penitentiary institutions. Currently, with the help of foreign experts, work is underway to develop and adapt it to local conditions. However, even now it can be predicted that, under conditions of high unemployment in places of deprivation of liberty, they will be vulnerable from the point of view of labor re-socialization.

In general, among all the tools for assessing the behavior of convicts, the most common in prison practice is compliance with the internal rules of conduct of the institution. By implication, this tool is completely aimed at adapting people to prison life, so it is very convenient for employees, since it additionally increases their power over prisoners.

The internal rules of conduct of any prison facility are based on the principle of detailed regulation of life in confinement and submission to these regulations. In fact, they are aimed at suppressing the will of man, which is quite natural for prisons. But, when in prison the prisoner does not have the opportunity to work and earn money, participate in re-socialization programs, develop and prepare for release, that is, he/ she is not engaged in activities where he/ she can spend his/ her energy, then he/ she starts to degrade morally. In such a mental condition, unquestioning observance of internal rules of conduct becomes a difficult test for him/ her.

It is very easy to obtain a disciplinary penalty, as well as a negative degree of behavior, it is enough to smoke a cigarette in the wrong place, be late for a meeting on the parade ground, object to a controversial decision of the administration of the institution, etc. All this will be assessed as non-compliance with internal rules of conduct. In order to avoid such situations, convicts often independently take the initiative in establishing corrupt relations with the staff of the institution.

As a result, when half of the tools for assessment of the behavior of convicts does not work, and the main instrument used serves as a lever of ascendancy over them, the establishment of a certain degree of behavior depends on the subjective attitude of the staff to the prisoner, which inevitably creates conditions for corruption.

## 2. TRANSFER OF CONVICTS FROM SPECIFIC CONDITIONS TO OTHER WITHIN THE PENITENTIARY FACILITY

In accordance with the penitentiary legislation (Article 103 of the Penal Code), most of the penitentiary facilities for convicts, sentenced to deprivation of liberty, are internally divided into four confinement conditions: regular, strict, light and preferential (in certain facilities there are three conditions: regular, strict and light).

The purpose of separation is differentiation of convicts depending on

Thus, as long as there are no external tools for assessing the behavior of convicts aimed at their re-socialization, which at least balance the existing instruments, corruption risks will remain within the penitentiary institutions when determining the behavior of convicts.

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

**Rule 91**  
*The treatment of persons sentenced to imprisonment or a similar measure shall have as its purpose, so far as the length of the sentence permits, to establish in them the will to lead law-abiding and self-supporting lives after their release and to fit them to do so. The treatment shall be such as will encourage their self-respect and develop their sense of responsibility.*

their conduct and is a logical continuation of the previous question. That is, in most cases the transfer of a convict from one condition to another depends on the particular degree of his or her conduct/behavior.

The grounds for such internal transfer within one facility are detailed in the Penal Code provisions. These grounds are presented in the tabular form below.

Minimal Security Facility	
Condition type	Grounds for transfer
regular	newly arrived convicts, and convicts transferred from strict and light conditions
light	at least 3 months in regular conditions, 1st positive degree of conduct, diligent attitude towards work
strict	worst offenders
from strict to regular	after 6 months in the absence of penalties

Medium Security Facility	
Condition type	Grounds for transfer
regular	newly arrived convicts, and convicts transferred from strict and light conditions
light	at least 6 months in regular conditions, 1st positive degree of conduct, diligent attitude towards work
preferential	at least 3 months in light conditions, 3rd positive degree of conduct, 1 year prior to release
strict	worst offenders
from strict to regular	after 6 months in the absence of penalties

Maximum Security Facility	
Condition type	Grounds for transfer
regular	newly arrived convicts, and convicts transferred from strict and light conditions
light	at least 9 months in regular conditions, 1st positive degree of conduct, diligent attitude towards work
preferential	at least 3 months in light conditions, 3rd positive degree of conduct, 9 months prior to release
strict	worst offenders
from strict to regular	after 9 months in the absence of penalties

High Security Facility	
Condition type	Grounds for transfer
regular	newly arrived convicts, and convicts transferred from strict and light conditions
light	at least 1 year in regular conditions, 1st positive degree of conduct, diligent attitude towards work
preferential	at least 6 months in light conditions, 3rd positive degree of conduct, 6 months prior to release
strict	worst offenders
from strict to regular	after 1 year in the absence of penalties

Complete Security Facility	
Condition type	Grounds for transfer
regular	newly arrived convicts, and convicts transferred from strict and light conditions
light	serving at least 1 year of punishment, 1st positive degree of conduct
strict	- worst offenders from regular and light conditions - transferred for violations from facilities of medium, maximum and high security
from strict to regular	after 1 year in presence of 1st positive degree of conduct

Transferring convicts to different conditions of serving punishment is under the competence of the facility commission (Article 17 of the Penal Code). Representatives of the local executive bodies as well as representatives of public may participate in the work of the commission (Article 103 of the Penal Code).

At the first glance, everything is clear from the information presented in the table. However, an in-depth analysis raises a number of questions. First of all, it is not clear why the diligent attitude towards work

is the requirement for transfer only from regular to light conditions? Why there is no such requirement for transfer from light to preferred conditions i.e. to higher level? In this case there is another requirement – that is third positive degree of conduct which requires membership in voluntary organization of convicts (see the previous paragraph). According to the sense and provisions of the law, there is no need for worst offenders to demonstrate diligent attitude towards work in order to be transferred from strict to regular conditions.

We have already noted earlier that obtaining degrees for good conduct and the transfer of convict between conditions are closely interlinked since these are the chains of the system for assessment of conduct. In this regards, the logic of the authors of the current penitentiary legislation, who deprived the system of conduct assessment of the basic sequence, is not quite clear. Furthermore, taking into account the low level of employment of convicts, mentioned earlier, the requirement for diligent attitude towards work is not applicable to many.

There also other peculiarities, hindering the clear interpretation of legislation. For instance, apart from “worst offender” in the Penal Code there is a notion of “systematic violator”, which is not directly expressed or stipulated in the Penal Code in the framework of transferring convicts between conditions. Though, they may be considered indirectly, that is, through other norms, as the analysis revealed this is what happens in practice.

Such flaws in the legislation create favorable conditions for corruption abuses, as they make it difficult for prisoners to explore into their rights and demand accurate implementation from the administration of the facility. It should also be taken into consideration that most of the convicts belong to the low social strata, they are not educated enough or have no legal education at all, thus, they do not understand all the nuances.

Participation of representatives of local executive bodies and the public in the work of the commission for the transfer of convicts from one condition to another, as provided for in Article 103 of the Penal Code, does not guarantee a fair and lawful decision making. Thus, for some prisoners who have material opportunities, it is easier to negotiate with the staff of the facility than to delve into a cumbersome and intricate penitentiary legislation.

Consequently, the low transparency of penitentiary facilities, weak external control mechanisms, insufficient laws and ineffective tools for conduct assessment create favorable conditions for corruption and allow the administration of the facility to assign to the convict the required degree of conduct and transfer them from one condition to another.

*United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*  
*Rule 93*  
*1. The purposes of classification shall be:*  
*(a) To separate from others those prisoners who, by reason of their criminal records or characters, are likely to exercise a bad influence;*  
*(b) To divide the prisoners into classes in order to facilitate their treatment with a view to their social rehabilitation.*  
*2. So far as possible, separate prisons or separate sections of a prison shall be used for the treatment of different classes of prisoners.*

### 3. PROVISION OF LONG-TERM APPOINTMENTS TO CONVICTS

It is of utmost importance for prisoners to maintain social ties during the period of isolation from society. This is also important for the society to which the prisoner returns after release, including for the security concerns.

It has been proven that prisoners who have families or parents are less prone to violate prison rules and make more efforts for early release. However, the strength of family ties directly depends on the duration of imprisonment, namely, the longer the isolation, the weaker the links. This occurs due to intrinsic reasons, when those who are close eventually become estranged from each other.

This is especially important for convicts in Kazakhstan, where the terms of imprisonment are much higher than in European countries. In accordance with the Criminal Code of the Republic of Kazakhstan (Article 46 of the Criminal Code), the term of imprisonment starts from 6 months and can reach up to 30 years. There is also life imprisonment envisaged by the law. In such conditions, each meeting with relatives is a very much awaited and highly memorable event for convicts.

*United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*  
*Rule 106*  
Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his or her family as are desirable in the best interests of both.  
*Rule 107*  
From the beginning of a prisoner's sentence, consideration shall be given to his or her future after release and he or she shall be encouraged and provided assistance to maintain or establish such relations with persons or agencies outside the prison as may promote the prisoner's rehabilitation and the best interests of his or her family.

According to the penitentiary legislation of Kazakhstan, convicts are allowed to have short-term appointments, lasting for 2 hours and long-term appointments - 2 days (3 days until 2015). The appointments are granted to spouses, close relatives and persons, though not married to a convict, but having children in common (Article 106 of the Penal Code).

A long-term appointment is a stay in a separate room within the penitentiary facility. Rooms for such appointments are located in the administrative building, which is watched over and where there is no free access for the majority of convicts. There are several rooms for such appointment in each penitentiary facility, depending on the number of places in the facility. There is also a common kitchen for cooking or warming up the food, and common sanitary unit (toilet, shower).

The analysis of world practice has revealed that such long-term appointments with a stay in the penitentiary facilities are peculiar to the countries of former Soviet Union. This has historical and geographical reasons. It is commonly known that during the Soviet times, especially after the Second World War, cheap labor of prisoners was widely used in the economy: road and bridge construction, construction of buildings, timber harvesting, underground work in mines, etc. The development of new lands also took place with the help of prisoners, including in Kazakhstan, Siberia, and the Far East. In these cases, prison facilities were established in uninhabited sites, far from populated areas, in the steppe or in the forest. Because of the vast territory of the Soviet Union, relatives of prisoners were forced to travel to the facility for several days, and sometimes for more than a week, for example, from the western to the eastern part of the country. Therefore, the practice of having of appointments lasting 3 days with a stay in the premises of the penitentiary facility is quite logical and justified for that historical period.

In many countries in the West such long-term appointments with a stay in the



facility are not allowed, and only permitted and applicable in special cases, for example, when a prisoner's family moves to another country. In these cases, the prisoner is given the opportunity to spend one day with his wife and children in a specially-equipped living space for the intercourse, similar to a hotel room.

Eligibility of prisoners in Kazakhstan to the right for long-term appointment with relatives, staying in the facility, is presented by the prison authorities as an element of humanity, which has to be acknowledged and accepted given the long prison terms and the lack of effective and modern tools of resocialization in penitentiary practice.

Alongside with that, provision of long-term appointments to convicts contains corruption risks. Although the number of long-term appointments is strictly regulated in the Penal Code and depends on the conditions in which the convict is serving the sentence, in reality, as the study revealed, if interested the administration of the facility can provide the convicted person with appointments above usual or appointment with outsiders, that is, non-relatives.

In some cases, such appointments are not documented. In other cases such appointments are recorded as appointments with relatives who for various reasons cannot come. There are also cases when the appointments are logged under the name of other convicts who don't have relatives but are eligible to such appointments.

As already noted in the first part of this study, the lack of electronic database of convicts facilitates such abuses. Information on the appointments attached to the personal file of the convict in the hard copy can be easily removed, changed or replaced.

Apparently, appointments have always been and will be the object of increased interest of prisoners. Irrespective if it is with relatives, crime accomplices or representatives of sexual services. Therefore, oversight and anti-corruption authorities should pay careful attention to this aspect.

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

*Rule 58*  
*1. Prisoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals:*  
*(a) By corresponding in writing and using, where available, telecommunication, electronic, digital and other means; and*  
*(b) By receiving visits.*  
*2. Where conjugal visits are allowed, this right shall be applied without discrimination, and women prisoners shall be able to exercise this right on an equal basis with men. Procedures shall be in place and premises shall be made available to ensure fair and equal access with due regard to safety and dignity.*

**4. CHANGE OF THE PENAL FACILITY FOR THE CONVICTED PERSONS TO SERVE THEIR SENTENCE**

A considerable difference of the Kazakh penal system from the European one is transfer of the prison population, in particular their transportation by railroad from one region of the country to another. Moreover, multiple transfers of a prisoner while serving his/her sentence are allowed by the law.

Article 88 of the Penal Code provides that the persons sentenced to deprivation of liberty serve their sentence in one and the same facility, unless:

- 1) the relevant facility in the place of residence of the convicted person is not available;
- 2) the prison population limits in the facility are exceeded.

As is well known, Kazakhstan is divided into 16 administrative-territorial divisions (14 provinces and 2 cities of national significance). However, the penal correction system includes 1 juvenile facility, 6 facilities for female convicts, 4 specialized medical facilities. Facilities for male convicts are not evenly distributed across the country either. In addition, the facilities are divided into 5 types, and they are not available in every region. Therefore, there are multiple cases when after the judgement became enforceable, the convicted person is transferred by railroad to a different province.

His/her further transfer to the similar security facility/prison shall be based on the decision of the prison administration (Article 88, Penal Code) in the following cases:

- 1) to ensure security of the convicted;
- 2) in case of the facility reorganization or liquidation;
- 3) due to operational need upon a prior consent of a prisoner;

- 4) to maintain law and order in the facility.

As we can see, the first two grounds are based on the objective factors, whereas the third one requires a convict's consent, and the fourth one may be based on subjective decisions of the prison administration.

In addition to the above-mentioned, Article 96 of the Penal Code contains provisions for grounds as a basis for a prisoner transfer to a facility of a different type of security. These transfers are mainly due to the prisoner's behavior, in some cases relevant length of the sentence imposable is required. The current penal code that was enforced in 2015 expanded the grounds for such transfers.

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

*Rule 59*  
*Prisoners shall be allocated, to the extent possible, to prisons close to their homes or their places of social rehabilitation.*

The above-mentioned circumstances shall be the grounds for the transfer of many prisoners from one region of the country to another by train. In the penal practice, this can be explained as follows. At first, after a judgement became enforceable, the convicted person shall be sent to serve his/her sentence to another province. Then, due to different reasons, he/she can be transferred from one correctional facility to another either within this province or outside. At the same time, he/she or his/her relatives make efforts to transfer him/her to the facility that is close to his/her home which is very important for the prisoner's family from the social, logistical and financial standpoints given Kazakhstan's large territory (the area of 2,724,902 km<sup>2</sup>, the 9th largest in the world).

Railroad transfer of the prisoners, which is called 'under-guard-transportation' in prison terms, that is similar to the long-term visit procedure, is a leftover of the Soviet militarized prison system (under-guard-transportation/transfer was established during tsarist Russia, but was widely used during Soviet times). There are special carriages ('vagonzaks') to transport the accused persons with minimal sanitary conditions when the prisoners are given hot water for food consumption purposes only. Due to the fact, that the carriages with prisoners are coupled to the trains en route (mostly, freight trains) several times, the trip may take over a week. The transfer system also includes soldiers who provide security and escort services, firearms, working dogs, etc. Obviously, such transfer of prisoners suggests certain burden on the national rail network and requires serious security measures. All the above-mentioned requires significant financial allocations from the national budget.

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

*Rule 73*

- 1. When prisoners are being removed to or from an institution, they shall be exposed to public view as little as possible, and proper safeguards shall be adopted to protect them from insult, curiosity and publicity in any form.*
- 2. The transport of prisoners in conveyances with inadequate ventilation or light, or in any way which would subject them to unnecessary physical hardship, shall be prohibited.*
- 3. The transport of prisoners shall be carried out at the expense of the prison administration and equal conditions shall apply to all of them.*

Moreover, the findings of this issue analysis revealed serious corruption risks which are

driven by the natural desire of each prisoner to serve sentence close to his/her home. The vast majority of convicts' communications to the Committee on the Penal Correction System request a transfer to the region of their place of residence before conviction, to be close to their parents, spouses and children. However, the majority of these communications are not satisfied which is adding to the tension of the issue.

This issue was also highlighted by the Ombudsman for Human Rights in the Republic of Kazakhstan. In his 2016 report, he noted: "The citizens' complaints regarding impermissible serving of sentence far from their homes have been submitted to the central administration of the Penal System Committee. Regrettably, we managed to achieve positive decisions on 3 complaints only. It should be stressed that in the current socio-economic conditions, serving sentence several thousand kilometers from home practically deprives a prisoner from the family visits, which is in flagrant violation of his/her rights".

However, the prison system staff inquiry showed that after the judgement became enforceable, the person may be allowed to serve his/her sentence in the region of his/her residence under certain corruption circumstances. Moreover, under these circumstances, the convicted person previously transferred to a different province may be returned to the facility located in the area of his/her place of residence. If the area lacks the facility of a relevant type of security, the convicted person may be kept in the mixed security facility that operates as a pre-trial detention facility, and they are available in every region (the penal Code allows this procedure under certain circumstances when prisoners perform particular chores). If there is a facility of the relevant type of security with no vacant cells in the region, it is not a problem because overcrowding is considered to be a temporary thing.

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

*Rule 11*

*The different categories of prisoners shall be kept in separate institutions or parts of institutions, taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment; thus:*

- (a) Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women, the whole of the premises allocated to women shall be entirely separate;*
- (b) Untried prisoners shall be kept separate from convicted prisoners;*
- (c) Persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by reason of a criminal offence;*
- (d) Young prisoners shall be kept separate from adults.*

It is obviously very difficult to absolutely eliminate corruption risks at the transfer stage. It is a justified requirement to keep different categories of detainees separate, which also meets international standards. However, it is possible to minimize opportunities for the corruption in this area.

How could it be done? One of the means is to reduce the grounds for the convicts' transfers. In this case, it is necessary to merge facilities of the two different types of security, at least. Currently, the Kazakh facilities for serving sentences of deprivation of liberty are divided into: minimum, medium, maximum, extreme and high-security facilities/prisons, which is an excessively cumbersome classification.

It is necessary to take into consideration that humanization efforts during recent years both reduced the prison population and changed its structure. Thus, before 2010, 18-20% of prisoners in detention facilities were convicted for crimes of small and medium gravity, the

share of these convicts in the recent years stays at 5%. In other words, 95% of prisoners are persons who committed serious or particularly serious offences. And, under the current legal policy, this indicator of homogeneous prison population will be maintained.

These figures give reasons for merging medium-security facilities/prisons (total 21 each) and maximum-security facilities/prisons (total 22 each) with a majority of prison population – over 70%. In legal terms, it shall be done via the Criminal Code amendments. This merger will make it possible not to send the convicted person to another region at the initial stage of serving sentence.

The fact that there is no or small difference between the medium, maximum and extreme security facilities/prisons serves as an additional argument in favour of this proposal. According to the Penal Code, the only difference between the three mentioned types of facilities, even if it may seem trite, is the number of allowed parcels, packets and visits (articles 136, 138, 140 of the Penal Code). Furthermore, according to the Code the convicted person in the extreme security prison will be kept in milder conditions and have more benefits that the convict in the medium security prison provided that he/she behaves in a particular manner.

Objectively speaking, the level of strictness in the Kazakh penal facilities increasingly depends on the exactingness and integrity of the prison administration rather than on its security type.

Merger of medium and maximum security facilities will not reduce the prisoners' differentiation. As we noted earlier, the facilities have an internal division into ordinary, eased, concessionary or strict conditions. These conditions are maintained in isolated, fenced, guarded compounds separating prisoners based on their behavior. These conditions duplicate the security types of facilities as they have the same function – differentiation of prisoners and individualization of



punishment.

Thus, it is possible to minimize corruption risks at the stage of determination of the detention facility type for the convicted person to serve the punishment through optimizing security types of facilities/prisons, in particular merging medium and maximum security facilities/prisons. It will also allow to:

- save significant state resources;
- improve reintegration of prisoners through preserving family communication and social networks;
- further transition from totalitarian Soviet past to humanizing the national penitentiary system.

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

**Rule 68**  
*Every prisoner shall have the right, and shall be given the ability and means, to inform immediately his or her family, or any other person designated as a contact person, about his or her imprisonment, about his or her transfer to another institution and about any serious illness or injury. The sharing of prisoners' personal information shall be subject to domestic legislation.*

## CONCLUSION

This study has touched only some corruption facets in the penal system, and based on their analysis findings several recommendations were proposed.

Due to the fact, that the prisoners are kept in small restricted areas, any corrupt practices in their relations with the prison staff eventually become known to all. Therefore, corrupt practices in prisons undermine both credibility of sentence imposed by court in the name of the State, and overall country's legal system.

Only legislative measures in combating corruption will not have any meaningful results. As we note in Part 1 of this study, we would like to highlight again that ensuring the quality of prison staff is a primary measure to be taken. This can be achieved by several steps: correct selection of employees, appropriate anti-corruption ethics and compliance among the prison staff throughout their career, continuous training for the prison staff, collective responsibility for acts of corruption, high salaries, etc.

*The 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.  
2. The prison administration shall constantly seek to awaken and maintain in the minds 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 should be used.

*3. To secure the foregoing ends, personnel shall be appointed on a fulltime 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.*

And, under modern conditions of automated management and administration processes, penitentiary system has paper-based manual record keeping processes, including the convicts' personal files. Technical modernization in penitentiary system will allow to make quick and information-based decisions. The whole decision making process will become more transparent, thus minimizing corruption risks.

*Anti-Corruption Strategy of the Republic of Kazakhstan for 2015-2025 approved by the approved by the Decree No. 986 of the President of the Republic of Kazakhstan on January 26, 2014*

*The fundamental terms for an effective and systematic fight against corruption shall be deemed to have a presence of accountability of state authorities to the society; independence and fairness of justice; laws that are clearly stated and simple to administer, the existence of meritocracy in state personnel policy; transparency of government procedures and a degree of intolerance for corruption in society as well.*