



Compliance performance: Explaining diverging paths of penal reform across the Global East

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Abstract

This article examines why Kazakhstan, Kyrgyzstan, and China — each inheriting the Soviet model of punishment — have diverged in their prison reforms. It asks why Kazakhstan and Kyrgyzstan have moved toward more reintegration-oriented approaches, while China remains centralized and punitive. A comparative case study evaluates four factors: foreign donor involvement, alignment with international norms, openness to NGOs, and the persistence of state ideology. Measured through treaty ratifications, donor projects, NGO access, and policy analysis, the findings show that Kazakhstan and Kyrgyzstan's external engagement and reduced ideological control have supported gradual reform. In contrast, China's strong ideological framework and minimal external influence sustain its punitive system. Using the concept of compliance performance the study explains these differences and contributes to understanding how structural and ideological conditions shape penal change in the Global East.

Key words

Penal reform, compliance, Global East, international standards, ideology

Resumen

Este artículo examina por qué Kazajistán, Kirguistán y China, países que han heredado el modelo soviético de castigo, han tomado caminos diferentes en sus reformas penitenciarias. Se pregunta por qué Kazajistán y Kirguistán han adoptado enfoques más orientados a la reintegración, mientras que China sigue siendo centralizada y punitiva. Un estudio comparativo evalúa cuatro factores: la participación de donantes extranjeros, la alineación con las normas internacionales, la apertura a las ONG y la persistencia de la ideología estatal. Mediante la ratificación de tratados, los proyectos de donantes, el

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acceso de las ONG y el análisis de políticas, los resultados muestran que la participación externa y la reducción del control ideológico de Kazajistán y Kirguistán han favorecido una reforma gradual. Por el contrario, el sólido marco ideológico y la mínima influencia externa de China mantienen su sistema punitivo. Utilizando el concepto de cumplimiento normativo, el estudio explica estas diferencias y contribuye a comprender cómo las condiciones estructurales e ideológicas configuran el cambio penal en el Este Global.

Palabras clave

Reforma penal, cumplimiento, Este Global, normas internacionales, ideología

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1. Introduction

Over the past three decades, countries across Eurasia have undertaken penal reforms with varying degrees of intensity and ideological commitment. Despite their shared historical legacy of Soviet-style correctional practices, Kazakhstan, Kyrgyzstan, and China have charted markedly different trajectories in the reform and humanisation of their penitentiary systems. This article investigates the divergence in penal reform pathways among these three countries, analyzing the structural, political, and international factors that help explain these differences.

At the core of the inquiry is a central puzzle: why have Kazakhstan and Kyrgyzstan, both formerly part of the Soviet Union, gradually shifted toward more reintegrationist penal models that emphasize rehabilitation and compliance with international norms, while China has largely maintained a centralized, ideologically rigid, punitive, and state-dominated penal system? This question leads to the concept of compliance performance, which captures how states symbolically demonstrate alignment with international norms while selectively maintaining domestic control. At the global level, penal reform efforts are guided by several key international instruments that set the normative expectations for states. These include the *United Nations Standard Minimum Rules for the Treatment of Prisoners* (the *Nelson Mandela Rules*), the *Bangkok Rules* on women offenders, and the *Convention against Torture* (CAT) along with its *Optional Protocol* (OPCAT). Together, these instruments establish the legal and ethical framework for humane treatment, rehabilitation, and oversight within penal systems. States are expected to align domestic legislation with these standards, ensure independent monitoring mechanisms, and report progress to international bodies. These frameworks thus serve as the reference point for assessing compliance performance across Kazakhstan, Kyrgyzstan, and China.

To examine this idea, the paper investigates divergence in degrees of penal reform across the three countries in terms of four key structural variables:

1. Dependence on international donors and foreign investment. The degree to which each country has engaged with external financial and technical assistance has shaped their exposure to reform-oriented programs and best practices.
2. Proximity to and engagement with European normative frameworks. Especially in the cases of Kazakhstan and Kyrgyzstan, the influence of the Council of Europe and associated legal harmonization initiatives has promoted alignment with international standards, including the Mandela Rules and the Bangkok Rules.
3. Openness to civil society and NGO participation. A robust, independent civil society plays a critical role in advocating for rights-based reforms, offering services within the prison system, and enhancing external oversight.
4. Persistence of ideological legacies and institutional inertia. Political culture and penal ideology — particularly in China — continue to shape penal governance, often resisting liberalizing trends in favor of state control and discipline.

China illustrates a case of persistent ideological resistance to global penal reform, where Communist Party dominance and Maoist legacies continue to structure penal institutions. In contrast, Kazakhstan and Kyrgyzstan — while also carrying Soviet institutional legacies — have moved toward pluralistic and hybrid models of penal governance in the post-independence era (since 1991). These moves include the development of probation systems, training programs on international standards, and the partial opening of correctional facilities to NGO monitoring and service delivery.

This divergence raises critical questions about the global diffusion of penal norms and the extent to which authoritarian or hybrid regimes selectively internalize or resist international standards. The comparative analysis employed here draws from theories of penal change that emphasize the interplay of structural constraints, international influence, and domestic agency (Garland 2001, Wacquant 2009). In particular, I adopt an analytical framework that views penal transformation not simply as a domestic process but as one embedded in transnational flows of policy ideas, donor agendas, and ideational contestation (Nelken 2009). Recent debates in the literature on penal reform challenge the assumption of global convergence, contrasting universalist approaches that emphasize policy transfer and harmonization (Garland 2001, Wacquant 2009) with constructivist and socio-legal perspectives that stress local adaptation, resistance, and selective translation of norms (Merry 2006, Nelken 2009). This study contributes to these debates by examining how Global East contexts both internalize and strategically reinterpret international penal standards, revealing the coexistence of formal compliance and local path-dependence.

The article will proceed as follows. First, a review of the relevant literature on penal change, norm diffusion and compliance performance, provides theoretical grounding for the variables under investigation. Second, the methodology section outlines the comparative design and sources of data, including empirical material from government reports, academic studies, and NGO publications. Third, the case analysis presents the penal reform trajectory of each country in relation to the four structural variables. Finally, a comparative synthesis examines reasons for the observed variation across the examined variables. The conclusion reflects on the broader implications for global penal reform movements and theoretical debates in sociology and criminology.

By situating Kazakhstan, Kyrgyzstan, and China within a shared historical framework yet analytically distinguishing their reform paths, this study contributes to the literature on post-authoritarian transitions, global norm diffusion, and penal pluralism. It also highlights the interdependence of external and internal drivers shaping penal transformation beyond the Global North.

1.1. Case selection logic

Kazakhstan, Kyrgyzstan, and China share a common historical template of Soviet-style correctional governance yet exhibit systematically different positions on donor engagement, international legal alignment, civil society access, and ideological persistence. This structured variation — from donor-dependent Kyrgyzstan, through selectively modernizing Kazakhstan, to ideologically insulated China — creates a meaningful spectrum to probe the compliance performance framework under post-socialist and authoritarian conditions, while holding constant core historical legacies.

2. Literature review and theoretical framework

In recent years, there has been a global shift in penal policy debates, with growing emphasis on human rights, rehabilitation, and the reduction of persistently high prison rates (PRI 2024). This trend has prompted renewed attention to how international standards — such as the Nelson Mandela Rules and the Bangkok Rules — are adopted, interpreted, or resisted by states with complex historical legacies. Among the most challenging environments for such reforms are penal systems shaped by long-standing traditions of centralized control, ideological enforcement, and institutional continuity from authoritarian or colonial regimes. Several overlapping strands of literature address these issues, including research on legal pluralism, institutional hybridity, post-socialist transformation, and decolonial critiques emerging from the Global South and the Global East.

Compliance performance is understood here not as the mere adoption or enforcement of international norms, but as a strategic and often symbolic process through which states manage external expectations while preserving domestic legitimacy. This conceptualisation aligns with critical perspectives in norm-diffusion and compliance literature that emphasize decoupling, selective adaptation, and performativity (Checkel 1999, Risse and Sikkink 1999, Hafner-Burton and Tsutsui 2005, Simmons 2009). Scholars have highlighted that apparent convergence with global standards may conceal instrumental or rhetorical compliance, where governments adopt formal commitments without substantially altering coercive practices (Merry 2006).

Despite its relevance as a huge world area that incarcerated more people than any other region proportionately through the twentieth century, the former Soviet Union remains underrepresented in the literature on penal change and legal norm diffusion. Much of the existing research has focused either on advanced democracies or Global South states engaged in transitional justice (Slade 2018). The specific pathways of penal reform in post-socialist and semi-authoritarian settings — and the ways in which international norms are filtered through specific historical legacies — have received far less attention. In particular, southern criminology has yet to fully engage with decolonial criminological perspectives as applied to countries in Eastern Europe, the Caucasus, and Central Asia. In response to this gap, the concept of the *Global East* has recently emerged in criminology (Piacentini and Slade 2024). Such a category may allow us to capture how countries like Kazakhstan and Kyrgyzstan — colonized by Russia and the Soviet Union rather than Western European powers — reproduce power asymmetries and reform scripts structurally similar to other postcolonial spaces (Piacentini and Slade 2024). Moreover, the Global East might also be useful for analysing China, a country that was initially subject to Western imperial domination, before becoming communist and adopting penal ideologies from the Soviet Union.

Prison systems are not only sites of punishment, but also deeply embedded institutional expressions of state power, historical ideology, and normative order (Slade 2018, Mihr and Wittke 2023). In countries shaped by authoritarian or colonial rule, such as those of the former Soviet Union and its allies, penal institutions reflect a durable legacy of governance through discipline, control, and ideological conformity (Omel'chenko *et al.* 2024). The Soviet penal model institutionalized a unique configuration of power that combined centralized administration, mass incarceration, and forced labor with the

political goal of producing obedient, ideologically aligned citizens (Miller and Smith 2015, Barenberg 2024). It established highly bureaucratized systems with vertical command structures, discouraged discretion at the institutional level, and prohibited external oversight. Prisons were governed as extensions of the security apparatus, not as independent legal institutions.

This system also linked punishment directly to compulsory labor and ideological re-education, forming the basis for the system of correctional labour colonies known as the Gulag across the Soviet Union. China explicitly adopted elements of this model in the 1950s through the development of the *laojiao* (re-education through labour) system, designed with Soviet technical assistance and grounded in shared ideological foundations. Though China abolished this system in 2013, researchers argue that the core logic of authoritarian legality, ideological loyalty, and vertical command still underpins its prison management today (Dikötter 2016, O'Brien 2016).

Understanding how this legacy continues to shape prison reform is essential to interpreting contemporary penal trajectories in Eurasia. One analytical entry point is the evolution of hybrid institutions (Slade 2018, Kemp and Tomczak 2024) systems where communist logics coexist with selectively implemented global norms. Legal hybridity can mean that institutions are neither fully authoritarian nor fully liberal. Penal systems often formally adopt international human rights standards — such as the Nelson Mandela Rules — but apply them unevenly, constrained by institutional inertia and embedded disciplinary cultures.

This hybridity is well captured by the theory of legal pluralism (Engel *et al.* 2023), which emphasizes the coexistence of multiple legal and normative systems within the same institutional setting. Similarly, the literature on post-socialist modernization and comparative penology further suggests that penal reform in such contexts tends to follow a path of selective adaptation rather than full transformation. As Lacey (2008) and Merry (2009) argue, states often adopt elements of global standards to secure legitimacy or funding, without dismantling the foundational logic of their penal institutions. In this process, reform becomes symbolic as much as substantive — creating the appearance of alignment with international norms, while preserving domestic control.

In post-socialist penal systems, communist legal culture, international human rights law, and national political priorities interact to produce fragmented, often contradictory modes of prison governance. For instance, Kazakhstan has ratified most core UN treaties and implemented national preventive mechanisms, yet its correctional institutions still function under hierarchical control and punitive logic. One recent paper analyses this process in Kazakhstan (Slade *et al.* 2024). It finds that such hybrid legal environments often give rise to a form of “compliance performance” where reforms are performed to gain external legitimacy while preserving core authoritarian practices. This duality is particularly salient in Global East contexts, where geopolitical positioning compels states to navigate between global visibility and domestic control.

Following this literature, we can hypothesise that all three of the cases in this paper have selectively applied certain reforms, producing a hybrid and legally pluralistic mix in each case. What sort of mix exists in each case and why? Building on the concept of compliance performance, the paper argues that Kazakhstan and Kyrgyzstan display higher levels of international compliance performance than China. The latter two

countries, and particularly Kyrgyzstan, are positioned precariously in the world system economically and geopolitically. They require foreign direct investment to support economic growth and aim to balance geopolitical influences from a number of vastly more powerful actors — the US, the EU, Russia and China. Moreover, with the collapse of the Soviet Union, neither Kazakhstan or Kyrgyzstan has any particular ideological inclination to specific models of correction. China, in contrast, has become an economic and military global superpower in its own right, exerting financial and military clout around the world, including in Central Asia. As such, China does not need to perform compliance to international human rights standards. Instead, under Communist rule, it must comply with domestically produced ideological models of correction.

Building on this discussion, the study examines divergence in penal reform performance across the four structural variables outlined above, which collectively capture both international and domestic influences shaping penal transformation in the three countries.

This study operationalizes these four structural variables as follows: foreign donor involvement is measured by aid volume and presence of international projects in prison reform; norm alignment is traced through treaty ratifications and Council of Europe engagement; NGO openness is assessed through legal frameworks and actual monitoring access; and ideological influence is examined through legal documents, party narratives, and policy consistency with Soviet logics. Kazakhstan and Kyrgyzstan, following a compliance performance logic, score highly on variables 1 to 3, while China scores highly on variable 4. Accordingly, the paper demonstrates how the compliance performance framework helps explain why some countries progress towards reintegration-oriented and rehabilitative models of punishment, whereas others remain entrenched in punitive paradigms.

3. Methodology

The central methodological approach is comparative case analysis. Each country is treated as a distinct case, with data collected and analyzed according to the four thematic variables outlined above — donor involvement, legal norm alignment, civil society participation, and ideological influence. The comparative design is structured to reveal both shared institutional legacies and points of divergence, using these four variables as analytical lenses.

Data were collected from a combination of primary and secondary sources. Primary data included government documents, legislative acts, official statistics, and public statements from relevant ministries and political leaders. This methodology aligns with that described by Dolmatov *et al.* (2024), who conducted detailed documentary analysis of national legislation, policy documents, and Ministry of Justice reports in Kazakhstan, supplemented by reports from Amnesty International, Human Rights Watch and Freedom House (O'Brien 2016, Dolmatov *et al.* 2024).

Secondary data include scholarly literature, international organization reports (UNODC, UNHCR, OHCHR, Council of Europe), NGO assessments (e.g., Penal Reform International, Human Rights Watch, Amnesty International), and policy analyses from think tanks. These sources provide critical insight into how reforms are perceived and evaluated by external actors, particularly regarding compliance with the Nelson

Mandela Rules, OPCAT, and the Bangkok Rules (Garland 2001, Zyl Smit and Snacken 2009, Slade *et al.* 2022). Attention was paid to the credibility, publication date, and relevance of each source, with emphasis on materials published after 2013, when major reform discussions intensified.

To ensure comparability across the three cases, each of the four variables was operationalized with clear indicators:

- Donor involvement was assessed through the number of active international projects on penal reform, financial contributions reported by multilateral and bilateral donors, and partnership frameworks (e.g., EU Rule of Law initiatives, UN prison reform missions) (PRI 2019, UNODC in Central Asia).²
- Legal norm alignment was measured through treaty ratification status, participation in human rights reviews, adoption of UN standards, and national legislation referencing international norms (OHCHR 2022, 2023).
- Civil society participation was examined via the existence of legal frameworks enabling NGO access, the number and diversity of prison — focused NGOs, and documented examples of NGO — government cooperation in prison settings (O'Brien 2016, Amnesty International 2023).
- Ideological influence was evaluated through discourse analysis of official speeches, legal texts, and training materials for prison staff, with attention to concepts like patriotism, reeducation, collectivism, and references to historical models of correction (Mosher 1991, Dikötter 2016).

This multi-source and multi-variable strategy allows for both horizontal (cross country) and vertical (within country, across time) analysis. It accommodates the challenges of working in opaque or restricted research environments — particularly in the Chinese case — by triangulating between official documents, third-party evaluations, and historical institutional context.

Limitations of the study include uneven data availability, particularly in relation to China's closed governance model and restricted access to independent prison inspections. While Kazakhstan and Kyrgyzstan offer more transparency and access to local NGOs and reform documentation, the reliability and depth of available sources also vary. Nevertheless, the comparative method remains appropriate for generating theoretically informed, empirically grounded insights into why similarly structured penal systems have diverged so significantly over the past two decades.

By structuring the analysis around theoretically informed variables and operationalized indicators, the study adheres to the logic of explanatory comparison rather than descriptive juxtaposition. This methodological approach aligns with the paper's objective: to contribute to broader debates in comparative criminology and legal sociology by unpacking the structural foundations of penal transformation in the Global East.

² See: <https://www.unodc.org/roca/en/NEWS/Archive/unodc-in-central-asia.html>

3.1. Data and methods

This study relies on a comparative documentary analysis and secondary-data triangulation across three cases (Kazakhstan, Kyrgyzstan, China). Primary materials include national legislation (Penal Codes and penitentiary laws), policy documents and statistics published by ministries of justice and interior, ombudsperson reports, and UN treaty-body reviews under CAT/UPR. Secondary materials include peer-reviewed scholarship, international organization reports (UNODC, OHCHR), and NGO assessments (PRI, HRW, Amnesty). To enhance transparency and replicability, all claims are grounded in publicly verifiable sources issued predominantly between 2010 and 2024 (with historical works used for context).

The analysis operationalizes four variables drawn from the literature — (1) foreign donor involvement, (2) legal norm alignment, (3) civil society participation, and (4) ideological persistence — using simple content indicators. Donor involvement is captured through the existence of multi-year reform programs and technical assistance (EU, UNDP/UNODC, OSCE) and their documented outputs (training, infrastructure, legislative drafting) (PRI 2019, Council of Europe 2020, UNODC in Central Asia 2023). Legal norm alignment is assessed via ratification status (CAT/OPCAT), engagement with UN mechanisms, and incorporation of the Nelson Mandela and Bangkok Rules into national law/policy (UN 2016, PRI 2021, OHCHR 2022, p. 48). Civil society participation is measured through the legal basis and practice of NPM/PMC visits and NGO program access (Amnesty International, 2014; PRI, 2021). Ideological persistence is evaluated through official discourse and training materials, with attention to party-state frames and Soviet/communist legacies (Dikötter 2016, Slade and Trochev 2019).

Indicators are coded high /moderate / low based on the frequency, depth, and institutionalization of each practice, triangulating national and international sources to mitigate bias and issues of access in closed regimes (particularly China). This design prioritizes comparability across cases while acknowledging uneven data availability. Findings should be read as analytically robust but conservative in causal reach, consistent with best practice in comparative penology and norm diffusion research (Lacey 2008, Nelken 2009).

TABLE 1

Variable	Kazakhstan	Kyrgyzstan	China
Donor involvement	Moderate — Participated in EU Rule of Law Platform (2014–2019), UNDP, UNODC, and OSCE technical assistance for prison reform.	High — Multi-year donor engagement (EU, UNDP, OSCE, PRI) supporting justice reforms, including 2019 Penal Code revision.	Low/None — Cooperation with foreign NGOs highly restricted since the 2017 Foreign NGO Law; only limited ICRC-type technical seminars.
Legal norm alignment	Moderate-High — Ratified CAT and OPCAT (2013); established NPM; Penal Code 2015 introduced proportionality and non-custodial sanctions.	High — Ratified CAT and OPCAT (2008); active NPM; 2019 Code revision humanized sanctions and aligned with Mandela/Bangkok Rules.	Low — Ratified CAT but not OPCAT; abolished <i>laojiao</i> system (2013) while maintaining similar coercive frameworks.
Civil society participation	Moderate — Public Monitoring Commissions	High — NPM functioning with NGO monitoring;	Low/None — Independent NGOs excluded from

	and NPM established in 2013 but with restricted access and bureaucratic controls.	broader cooperation in rehabilitation and legal-aid programmes.	prison oversight; no NPM or similar mechanism.
Ideological persistence	Moderate — security-oriented discourse remains but without formal party control of penal institutions.	Low-moderate — Weaker ideological legacy and greater openness to external models.	High — Strong CPC-led ideological control and continued use of “re-education” narratives in penal governance.

Table 1. Comparative indicators across four variables (2010–2024).

4. Case analysis: Structural drivers of penal reform

This section analyzes the three case countries Kazakhstan, Kyrgyzstan, and China. Each subsection follows a consistent structure: a comparative overview of all three countries, followed by evidence-supported conclusions on the degree to which each of the structural variables of interest explains divergence in penal trajectories.

4.1. Foreign donor involvement

One of the central hypotheses of this study is that foreign donor involvement serves as a structural catalyst, according to a logic of compliance performance, for penal reform in post-Soviet and authoritarian states. External assistance influences not only the availability of material resources but also the design, normative content, and strategic direction of reform. This section assesses the degree and impact of donor engagement in Kazakhstan, Kyrgyzstan, and China, focusing on aid volume, programmatic content, and normative influence.

4.1.1. Kyrgyzstan

Kyrgyzstan demonstrates the highest degree of donor dependency among the three cases. Since gaining independence in 1991, its justice sector has been heavily supported by international organizations such as the United Nations Development Programme (UNDP), Penal Reform International (PRI), OSCE, and the European Union. These donors have contributed significantly to the modernization of infrastructure, capacity building, and legislative reform.

Between 2010 and 2020, approximately 35–40% of Kyrgyzstan’s penal reform expenditures were donor-funded (UN Committee Against Torture 2021, UNODC 2021). The Justice Sector Reform Programme (JSRP), supported by the EU and UNDP, included prison rehabilitation, alternatives to imprisonment, and the establishment of National Preventive Mechanisms (NPMs) compliant with the Optional Protocol to the Convention against Torture (OPCAT). The EU-funded “Rule of Law” programme, with a budget exceeding €13 million (European Union 2021), provided both technical and financial support for judicial and correctional reforms.

Donors have not only supplied financial assistance but also influenced reform content. For instance, the 2019 Penal Code revision included provisions inspired by European sentencing standards, particularly on non-custodial measures and proportionality. NGOs funded by the Soros Foundation and PRI acted as key intermediaries in translating international best practices into local reform strategies (PRI 2019).

Such sustained external engagement has fostered a reform environment oriented towards reintegration and rights-based correctional models. Importantly, donor support has enabled a multi-actor model involving civil society, prison staff, and government bodies, fostering a participatory approach to penal reform.

4.1.2. Kazakhstan

Similar to Kyrgyzstan, Kazakhstan likewise benefited from donor-supported legal reform initiatives, albeit to a lesser extent and under greater conditionality. A key example was the EU-Kazakhstan Rule of Law Platform (2014–2018/2019), under the broader EU-Central Asia Rule of Law Initiative. Within the regional platform it received approximately €2 million in targeted funding for Kazakhstan, as part of an overall EU regional allocation of €37.5 million for rule of law support across Central Asia (Isaacs 2009, Axyonova 2016, Kilichova 2023). This initiative supported prison infrastructure upgrades, training of penitentiary personnel, and the development of legal mechanisms for rehabilitation and parole.

UNODC and the OSCE supported Kazakhstan's implementation of the NPM in 2013 and provided training in international standards. The UN Subcommittee on Prevention of Torture carried out visits under OPCAT and engaged in technical dialogue with Kazakh authorities. The World Bank has also funded projects improving access to legal aid and judicial transparency, which indirectly affect the penal system.³

Kazakhstan's engagement with external actors in legal and penal reform has become more selective since its withdrawal from observer status with the Council of Europe in 2019 (Office of the Directorate General for Programmes 2019). While donor-funded initiatives have continued bilaterally, the normative influence of these partnerships has declined (*Human rights in Kazakhstan*, 2025), as government rhetoric increasingly emphasizes “national legal modernization” over externally driven human rights compliance.

Donor-funded initiatives during the 2010s played a formative role in shaping penal discourse in Kazakhstan, introducing new vocabulary around “restorative justice” and “rehabilitation”. An impact evaluation of a rehabilitation pilot project (2012–13) sponsored by the Norwegian Embassy and implemented by PRI Central Asia reports that these interventions increased awareness and institutional uptake of rehabilitative approaches at both central and local levels, helping mainstream concepts of reintegration into official practice. Furthermore, an Independent Evaluation of UNDP's support to access to justice highlights the role of international engagement in expanding alternative dispute resolution mechanisms and embedding restorative justice terminology within national frameworks (PRI 2013a).

Yet, recent policy directions indicate a growing reliance on domestic funding models, which may limit the scope for rights-based reform unless institutional incentives for compliance remain strong.

³ See: <https://data.worldbank.org>

4.1.3. China

China starkly contrasts with the other cases on this variable. Its penal system functions with virtually no involvement of foreign donors, particularly since the implementation of the Foreign NGO Law (2017), which tightly regulates international cooperation. This legislation requires all foreign NGOs to register with the Ministry of Public Security and gain approval for activities — a process described by Teets (O'Brien 2016) as a “gatekeeping mechanism for ideological conformity”. International actors such as the International Committee of the Red Cross (ICRC) and UNODC have had sporadic technical engagement with Chinese institutions, but these interactions are non-structural, short-term, and tightly controlled (Amnesty International 2023). For example, the ICRC has conducted health-focused seminars with Chinese prison authorities but has not been granted prison access or monitoring rights.

China's self-sufficiency in penal administration, combined with state ideological orthodoxy, limits the permeability of its correctional institutions to external models. There is no publicly available data suggesting that foreign donors have played a significant role in shaping penal policy, legislation, or practice. Even collaborative justice research is limited to tightly circumscribed academic partnerships without operational consequences.

Furthermore, donor-style programmatic funding, where reform content is co-produced or externally steered, is effectively absent. The prison reform agenda in China is centrally determined by the Ministry of Justice and the Central Committee of the Communist Party, leaving little space for normative pluralism.

The data affirm the explanatory value of foreign donor involvement as a structural driver of penal reform. Both Kyrgyzstan and Kazakhstan benefited from multi-year, multi-agency reform projects that supplied financial capital, expertise, and normative models. These interventions catalyzed changes in legislation, prison governance, and staff training, even if implementation varied.

In contrast, China's exclusion of external donors reflects both ideological closure and strategic self-reliance, making penal reform a top-down process with minimal rights-based input. The near absence of external pressure, coupled with the insulation of the penal bureaucracy, contributes to the persistence of authoritarian penal norms.

These findings suggest that foreign donor engagement constitutes a key enabling condition for transitions towards reintegration-oriented penal models in authoritarian contexts. Where donors are active and allowed influence, reform tends to align more closely with global standards. Where they are absent or marginalized, reform either stagnates or follows state-centric, disciplinary logics.

4.2. *Legal norm alignment*

Legal norm alignment refers to the extent to which countries harmonise their domestic penal systems with internationally recognised human rights standards and correctional norms. This includes formal treaty ratification, cooperation with international monitoring mechanisms, and the incorporation of global norms into national legislation and practice.

4.2.1. Kyrgyzstan

Kyrgyzstan demonstrates one of the most sustained and structured efforts toward aligning its penal system with international legal standards among post-Soviet states in Central Asia. This alignment reflects both normative commitments and practical cooperation with international organizations. It is underpinned by treaty participation, institutional reforms, and integration of global correctional principles into national law and policy frameworks.

The process began with the ratification of the Optional Protocol to the Convention Against Torture (OPCAT) in 2008, which laid the groundwork for the establishment of an NPM. The NPM is authorized to conduct unannounced visits to places of detention and has produced several monitoring reports since 2012, often in collaboration with civil society partners and international bodies such as OSCE, PRI, and UNDP (PRI 2021).

Legal alignment was further institutionalized through a series of legislative reforms, particularly the 2019 revision of the Criminal Code and Code of Criminal Procedure. These revisions included limits on pre-trial detention, expansion of non-custodial sanctions, and explicit references to the Nelson Mandela Rules, as part of efforts to humanize conditions of detention (PRI 2019). The reformed legal provisions introduced proportional sentencing, expanded the use of probation, and created stronger procedural safeguards for detainees, including juveniles and women. The 2019 revision of the Criminal Code and the Code of Criminal Procedure introduced new forms of non-custodial sanctions, aligning national law with the Nelson Mandela and Bangkok Rules.

In the international arena, Kyrgyzstan maintains regular interaction with human rights treaty bodies and the UN Human Rights Council's Universal Periodic Review (UPR) mechanism. These forums have provided both critique and technical feedback on prison conditions and legal gaps. As a result, Kyrgyz authorities have adopted progressive commitments in their national human rights action plans, often supported by UNOHCHR (OHCHR 2025).

An important normative milestone occurred in 2022, when Kyrgyzstan signed and ratified the Council of Europe Convention on the Transfer of Sentenced Persons, marking a rare instance of legal harmonisation with a European regional legal instrument by a Central Asian state. This ratification not only facilitates cross-border legal cooperation but also reflects Kyrgyzstan's aspiration to align with European correctional norms (Council of Europe 1983). Unlike Kazakhstan, which withdrew from its observer status in the Council of Europe, Kyrgyzstan's engagement appears to be expanding.

At the institutional level, the Ministry of Justice and State Penitentiary Service have been active in coordinating donor-supported technical reforms, often under the auspices of the Rule of Law Programmes funded by the EU and implemented by GIZ and UNDP. These programs have included drafting of prison standards, human rights training for staff, and development of a database for prisoner management aligned with international data protection norms (Council of Europe 2020).

However, challenges remain. Experts note that while the legal architecture has improved, implementation gaps are persistent due to resource constraints, staff turnover, and weak institutional culture. Independent monitoring reports highlight

issues such as overcrowding in remand facilities, insufficient medical services, and limitations in access to legal aid (PRI 2021). Furthermore, although civil society has gained formal access to penal institutions, local human rights organizations continue to face bureaucratic hurdles and capacity deficits.

Nonetheless, in comparative perspective, Kyrgyzstan stands out as the most normatively aligned with international standards of all the cases in this study. Its legal reforms are not only formal but substantively oriented toward reintegration and human dignity. The state's willingness to cooperate with regional and international mechanisms, as well as its active participation in norm-setting processes, underscores a strategic orientation toward a rights-based penal model, even if this is not practically achieved.

4.2.2. Kazakhstan

Kazakhstan has undertaken significant legal reforms to align its penal system with international norms, especially during the 2010s. It has ratified most of the core UN human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture (CAT), and the Optional Protocol to the Convention Against Torture (OPCAT). These formal commitments positioned Kazakhstan among the regional leaders in Central Asia in adopting global human rights standards.

A key milestone was the establishment of the NPM in 2013. Supported by the OSCE, UNODC, and UNDP, the NPM was designed to ensure independent monitoring of detention facilities and to meet Kazakhstan's obligations under OPCAT. The UN Subcommittee on Prevention of Torture conducted official visits in 2014 and 2016, followed by technical consultations that helped shape Kazakhstan's detention oversight procedures (UN 2016).

Beyond treaty ratifications, Kazakhstan was an observer state of the Council of Europe until 2019. Although it formally withdrew from this status, its prior engagement yielded a substantial normative imprint. Legal experts note that Kazakhstan's Penal Code reforms in 2015 — including provisions on proportionality, alternatives to imprisonment, and early release — reflected alignment with European standards, particularly the European Prison Rules (PRI 2021). The reforms also introduced new categories of non-custodial sanctions and improved guidelines for the treatment of vulnerable prisoners, including women and juveniles.

Kazakhstan's legal modernization efforts were additionally influenced by international development frameworks such as the Sustainable Development Goals (SDG 16), emphasizing access to justice and transparent institutions. Under the Kazakhstan Justice Sector Programme (2014–2018), supported by the EU and UNDP, legal reforms targeted not only the judiciary but also corrections. Among other initiatives, the program drafted new policies on probation, parole, and rehabilitation planning, some of which were codified into law (UNODC 2017, Office of the Directorate General for Programmes 2018, PRI office in Central Asia 2021, Mitskaya 2023).

Furthermore, the Penal Reform in Kazakhstan Programme (PRI 2013b, UNODC 2020) promoted legal awareness, rights education among inmates, and enhanced complaint mechanisms. Civil society organizations, in collaboration with UN actors, participated

in drafting amendments and conducting training for prison staff on the Nelson Mandela Rules.

Despite these achievements, experts point to persistent implementation gaps, especially in rural prisons and high-security institutions. For example, the Ombudsman's Annual Report (GOV.KZ 2021) noted structural challenges in preventing solitary confinement and ensuring access to legal aid in remote regions. Furthermore, rights violations such as overcrowding, inadequate health services, and insufficient reintegration support remain recurrent issues, suggesting that legal reforms have outpaced institutional transformation (Human Rights Watch 2020).

Kazakhstan's 2019 withdrawal from observer status in the Council of Europe also raised concerns about a shift toward legal sovereignty and re-centralization of authority. Although state rhetoric continues to emphasize modernization, recent reforms have taken a pragmatic and technocratic tone, emphasizing administrative efficiency over human rights.

Kazakhstan's international engagements have often followed a logic of strategic compliance, adopting global norms to meet donor expectations or strengthen diplomatic legitimacy, without deeply altering power structures (Merry 2009). The 2015 Penal Code reforms introduced proportionality, alternatives to custody, and early-release mechanisms in line with the European Prison Rules, while the 2013 Law on the National Preventive Mechanism institutionalized regular monitoring of places of detention. Nevertheless, in comparative perspective, Kazakhstan still demonstrates a higher degree of legal norm alignment than China, and more structured follow-through than Kyrgyzstan. The existence of a functioning NPM, active treaty engagement, and donor-supported legal reform distinguish it as a case of partial convergence with global penal norms.

4.2.3. China

China's legal framework is largely self-referential and engages with international penal norms. While the country ratified the CAT in 1988, it has notably refused to ratify the OPCAT, which would allow for regular international inspection of places of detention. This reluctance reflects broader concerns regarding sovereignty, ideological control, and institutional opacity (O'Brien 2016).

A significant legal development occurred in 2013, when the Chinese government announced the abolition of the Re-education Through Labor (*laojiao*) system, which had long been criticized for its lack of due process and for functioning as a parallel penal system. *Laojiao* allowed for the administrative detention of individuals — especially dissidents, religious practitioners, and drug users — without trial, often for years, and was widely condemned by both domestic and international observers (Su 2016, Amnesty International 2023). Although the *laojiao* system ("re-education through labour") was formally abolished in 2013, subsequent legal and administrative frameworks have reproduced similar mechanisms of coercive correction under the name of "education and transformation".

The official narrative portrayed this abolition as a major human rights reform, in alignment with global standards. However, scholars argue that the closure of *laojiao* did not eliminate the underlying logic or infrastructure of punitive control. Instead, new

mechanisms emerged, such as drug rehabilitation centers, legal education centers, and extrajudicial detention facilities (Su 2016, Harris 2019). These institutions often function with the same disciplinary and coercive practices once associated with *laojiao*, including forced labor and ideological indoctrination. As such, the transformation was more semantic than structural.

In parallel, recent revisions to the Criminal Procedure Law introduced selected safeguards on detention and procedural rights, yet implementation remains uneven and key protections fall short of international human rights standards, particularly in contexts of administrative or extrajudicial detention.

Teets (O'Brien 2016) and Dikötter (2016) argue that this continuity underscores the persistence of "authoritarian legality" in China's penal governance, a model that allows legal reforms to occur without threatening core mechanisms of political control. This model enables selective adoption of legal reforms for international optics while preserving institutional autonomy from external review. Notably, despite the abolition of *laojiao*, there remains no formal legal guarantee against extrajudicial detention, nor are rehabilitation centers or "transformation through education" camps subject to independent scrutiny.

Further, China has not adopted the Nelson Mandela Rules (United Nations Standard Minimum Rules for the Treatment of Prisoners) or Bangkok Rules (on the treatment of women prisoners) into its domestic legal system in a systematic or transparent way. Most penal reforms remain grounded in national priorities articulated by the Central Committee of the Communist Party, with human rights and international legal norms subordinated to ideological education and political stability (Xu 2006, Peerenboom 2007).

The lack of participation in regional human rights regimes, such as the Council of Europe or ASEAN's Intergovernmental Commission on Human Rights, further isolates China's penal system from normative convergence. Unlike Kazakhstan and Kyrgyzstan, which host visits from UN Subcommittees and engage with the Office of the High Commissioner for Human Rights (OHCHR), China maintains a policy of closed institutions and non-cooperation with most treaty monitoring bodies. Reports from the UN Committee Against Torture have repeatedly expressed concern about arbitrary detention, lack of legal safeguards, and torture, yet domestic reforms have not significantly addressed these issues (OHCHR 1992).

Overall, the abolition of *laojiao* represents a formal legal change, but one that has not been accompanied by substantive transformation in institutional practice. The persistence of coercive labor and indoctrination in other penal and administrative forms highlights the resilience of authoritarian legalism and the limited permeability of Chinese penal governance to global norms.

The legal norm alignment variable offers a clear distinction between countries that engage systematically with international standards (Kyrgyzstan, Kazakhstan) and one that resists such engagement (China). In terms of compliance performance, China neither perceives a need to comply with international norms nor seeks to be seen as compliant.

4.3. Civil society participation

The involvement of civil society in penal reform serves as a critical indicator of transparency, accountability, and normative alignment with global human rights standards (PRI 2022). Incarceration systems tend to reflect broader state-society relations, and the degree to which non-governmental actors are permitted to engage with prison governance provides insight into the democratization of penal policy. This section evaluates civil society participation in Kazakhstan, Kyrgyzstan, and China with attention to legal frameworks, monitoring access, programmatic collaboration, and institutional responsiveness.

4.3.1. Kyrgyzstan

Kyrgyzstan demonstrates the highest level of civil society participation among the three case studies. Legal provisions support the role of NGOs in prison monitoring, and the establishment of a NPM under OPCAT has enabled structured access to detention facilities. Local organizations such as Voice of Freedom and international actors including the UNODC and PRI have engaged in staff training, legal aid provision, and reintegration programs (PRI 2021).

Although civil society organizations in Kyrgyzstan are formally included in certain state strategies, this engagement is often selective and limited to organizations aligned with government interests. Independent NGOs face growing restrictions, including legislative pressure and surveillance, which undermine their ability to operate freely (Freedom House 2024). Since the ratification of OPCAT in 2008, the National Preventive Mechanism has been supported by legal provisions enabling regular access of NGOs to correctional facilities. For instance, the Ministry of Justice has signed formal agreements with NGO partners to co-deliver rehabilitation programs and monitor implementation of new penal codes (UNODC 2021). Independent monitoring reports are publicly available and are used by parliamentary committees and UN treaty bodies in evaluating national compliance. The open information environment allows civil society actors to publish policy recommendations and to critique state policies without major repercussions.

However, challenges persist, particularly under shifting political regimes. Since 2021, several draft laws have been introduced to tighten restrictions on foreign funded NGOs. While these have not yet been enacted, they pose potential threats to the sustainability of civil society involvement in the penal sphere (Freedom House 2023). Nevertheless, the existing infrastructure and social legitimacy of civil society actors remain relatively strong.

4.3.2. Kazakhstan

Kazakhstan has taken steps to incorporate civil society into prison oversight, but participation remains tightly controlled and institutionalized compared with Kyrgyzstan. Public Monitoring Commissions (PMCs), established around 2005, permit representatives of civil society to visit and report on institutions under the Ministry of Internal Affairs, but their access is constrained by procedural restrictions and limitations on transparency (Amnesty International 2016, U.S. Department of State 2016, Satubaldina 2019). The establishment of the National Preventive Mechanism (NPM) in

mid-2013 — followed by a Coordination Council in January 2014 and initial membership elections on 19 February 2014 — represented a major institutional milestone, enabling oversight by civil society experts, lawyers, medical professionals and social workers, including confidential visits and complaint registration (Law of the Republic of Kazakhstan 2013, Amnesty International 2014).

However, PMCs operate under significant constraints. Access is subject to approval by prison authorities, and visits may be limited in duration, scope, or timing. NGOs working on prison reform often rely on informal networks or donor-backed pilot projects to gain influence. International donors, including the OSCE, the European Union, and the UNDP, have funded civil society initiatives such as legal aid clinics and vocational training in prisons, but long-term institutionalization of such programs remains limited. These participatory structures were legally grounded in the Law on the National Preventive Mechanism (2013), which provided a statutory basis for public oversight in closed institutions.

Kazakhstan's recent legal environment has become increasingly restrictive. The 2022 law on "foreign agents" imposes new administrative burdens on NGOs receiving international funding, potentially deterring their involvement in sensitive areas like criminal justice. Moreover, while some NGOs have been included in legislative consultations, their recommendations are not always adopted, and criticism of the state's penal policies may trigger administrative scrutiny (ICNL).⁴

Despite these limitations, civil society has contributed to meaningful improvements. For instance, collaboration with PRI led to the adaptation of the Nelson Mandela Rules into staff training materials, and international projects have supported prison libraries, psychological services, and reintegration efforts (PRI 2021). Nevertheless, the impact of civil society remains contingent on state discretion and political will.

4.3.3. China

China presents the most restrictive environment for civil society participation in penal reform. Independent NGOs are largely excluded from prison oversight and service provision. The 2017 Foreign NGO Law requires all foreign organizations to register with the Ministry of Public Security and to obtain co-sponsorship from an approved government partner. In practice, this has led to the shutdown or redirection of many international penal reform projects (Amnesty International 2023).

Domestic NGOs that operate in criminal justice tend to be quasi-governmental or are tightly supervised by party-affiliated institutions. Human rights defenders and legal aid lawyers face harassment, detention, or disbarment when engaging in cases that involve prison conditions or abuse. Reports from Human Rights Watch and Freedom House document systemic barriers to civil society involvement, including censorship, surveillance, and legal harassment (Human Rights Watch 2022).

Some minimal engagement occurs through Red Cross affiliated programs or academic partnerships, often under close state supervision and with limited critical content. Rehabilitation services remain primarily the domain of state agencies, and there is no

⁴ See the Civic Freedom Monitor: <https://www.icnl.org/resources/civic-freedom-monitor>

functional equivalent to PMCs or NPMs. Civil society's role is therefore minimal and largely symbolic.

China's penal system remains effectively closed to independent civil society, reflecting the broader ideological and institutional commitment to centralized control. This exclusion has inhibited the development of reform-oriented initiatives and undermines external accountability. As such, civil society participation serves not only as a normative benchmark but also as a practical mechanism for reform implementation and sustainability. The 2017 Foreign NGO Management Law effectively restricted external actors from engaging in human rights or prison-related monitoring activities.

These findings reinforce the broader argument that civil society engagement is both an indicator and an enabler of penal modernization. States that allow critical participation by NGOs, even under imperfect conditions, are more likely to internalize global norms and to develop adaptive, humane penal institutions. To a large degree, Kazakhstan and Kyrgyzstan perform their compliance with the maxim of humanisation that civil society must be included in penal reform. Nevertheless, this compliance performance is still a move in a positive direction in terms of human rights, and enables greater societal involvement in the penal system than in China.

4.4. Ideological legacy and institutional inertia

The enduring influence of ideology and institutional path dependency presents a crucial explanatory factor in understanding penal reform trajectories. In post-Soviet states and authoritarian regimes, penal institutions are not only instruments of justice but also embodiments of political authority, normative control, and governance philosophy. This section examines how ideological continuity and bureaucratic inertia shape penal governance in Kyrgyzstan, Kazakhstan, and China, with attention to legal frameworks, administrative cultures, and training systems.

4.4.1. Kyrgyzstan

Kyrgyzstan has witnessed the weakest ideological entrenchment among the three cases due to early democratization movements and the relatively swift dismantling of Soviet-era political institutions. Since the Tulip Revolution of 2005 and subsequent constitutional reforms, Kyrgyzstan has adopted a pluralistic model of governance, which has also diffused into the criminal justice sphere (Marat 2018). While remnants of Soviet-style bureaucracy persist, they are not undergirded by a dominant ideological narrative. Instead, penal policy is shaped more by external models — primarily from international organizations — than by historical state ideology.

The correctional workforce in Kyrgyzstan increasingly receives training based on international standards, including UNODC modules and OSCE programs. For example, the 2021 Prison Staff Reform Strategy includes training on human rights and procedural safeguards (OSCE Office for Democratic Institutions and Human Rights 2023). Moreover, penal legislation avoids ideological framing, focusing instead on technical legal norms. This ideological neutrality facilitates adaptation to global penal norms, even if structural capacity remains weak.

Nevertheless, institutional inertia remains. The legacy of hierarchical command, lack of discretion, and limited innovation capacity continues to impede reform implementation.

Prisons remain under the Ministry of Justice, and the correctional staff often lack professional autonomy. However, compared to Kazakhstan and China, Kyrgyzstan presents the most ideologically open penal administration.

4.4.2. Kazakhstan

Kazakhstan retains stronger ideological legacies from the Soviet period, despite formal de-communization. The penal system remains centralized under the Ministry of Internal Affairs, as it was during Soviet times, a structure that reinforces hierarchical control, militarization, and limits independent discretion. Although Kazakhstan's Constitution enshrines democratic principles, the criminal justice system has historically functioned within a securitized governance paradigm (Slade and Trochev 2019, Slade *et al.* 2023).

Political discourse around criminal justice frequently invokes themes of “national stability”, “public order” and “social responsibility” echoing Soviet-era tropes of collectivist discipline. Penal staff continue to be trained in academies that emphasize loyalty, discipline, and law enforcement hierarchies. For example, the Academy of Law Enforcement under the General Prosecutor's Office continues to base training curricula on both international and national norms, but places strong emphasis on national security priorities (Trochev 2018, Slade and Trochev 2019).

Although Kazakhstan has adopted legal reforms inspired by international standards, the ideological commitment to punitive justice remains pronounced, particularly in high-security and rural institutions. The principle of “correction through labor” still informs some rehabilitative practices, and the introduction of probation and decarceration measures is often justified through pragmatic rather than rights-based narratives.

In recent years, political rhetoric has emphasized the penal system's role in promoting patriotism and moral education, particularly among youth offenders. Government-sponsored civic education programs implemented within juvenile detention facilities often contain elements of historical glorification and national identity formation (Myrzakhmetova *et al.* 2024). This signals the state's attempt to embed conformity through a cultural and ideological lens.

4.4.3. China

China presents the most entrenched ideological control over penal institutions among the three countries. The prison system remains a tool of the Communist Party of China (CPC), with its purpose explicitly framed as reeducation and ideological transformation. Despite the abolition of the *laojiao* (re-education through labor) system in 2013, subsequent research indicates that coercive ideological education persists in other forms, particularly in political and ethnic minority cases (O'Brien 2016).

The Ministry of Justice and the Ministry of Public Security jointly manage prisons, and personnel are trained in institutions where Marxist-Leninist principles and party loyalty are integral components of professional development (Dikötter 2016). Unlike in Kazakhstan or Kyrgyzstan, correctional officers are also expected to serve as ideological instructors, promoting national unity and political conformity.

Furthermore, the state's penal discourse continues to emphasize “harmonious society”, “socialist rule of law” and “patriotic reeducation”, often conflating crime control with

political loyalty. Penal institutions in Xinjiang and Tibet, for instance, have been widely documented as engaging in mass detention practices justified through ideological narratives (Human Rights Watch 2022, Amnesty International 2023).

China's legal and administrative system structurally integrates ideological education within penal management. For instance, the 2019 Training Manual for Correctional Officers issued by the Ministry of Justice includes mandatory modules on Xi Jinping Thought and the political responsibilities of prison workers. Party cells operate within all major prisons, reinforcing central directives and ideological conformity (Brady 2009).

The ideological legacy variable offers a powerful explanatory mechanism for understanding divergent penal trajectories. China remains the most ideologically rigid, with penal policy deeply embedded in party doctrine and serving overtly political functions. This ideological coherence constrains legal pluralism and obstructs alignment with global penal norms.

This comparison reveals that where ideology is rigid and politically enforced (China), penal reform must work within and to the goals of that ideology. Where ideology is absent or flexible (Kyrgyzstan), reform processes are more open to negotiation across a greater range of actors, including international ones. Kazakhstan's partial detachment from ideology allows for selective modernization efforts within certain limits.

5. Discussion: Performing compliance to What and for Whom?

In terms of the four variables considered here, we find that Kazakhstan and Kyrgyzstan show greater reliance on donor funding, stronger legal alignment with international standards, and higher levels of civil society engagement. China, by contrast, has higher degrees of ideological commitment to a particular penal model. Thus, China's penal institutions continue to serve the political purpose of instilling ideological conformity, with correctional officers acting as agents of both surveillance and individual re-education (Shaw 1998, Mühlhahn 2009, Liu and Wing Hong 2018). In contrast, Kazakhstan and Kyrgyzstan exhibit a progressive decoupling of their penal systems from centralized ideological control. The collapse of the Soviet Union initiated a transition from strict party-guided justice toward legal frameworks more open to external influence. Although remnants of Soviet disciplinary logic persist, neither Kazakhstan nor Kyrgyzstan systematically use prisons as tools of ideological indoctrination. This ideological loosening has created institutional space for engaging with international human rights standards and integrating global penal norms.

Kazakhstan and Kyrgyzstan have demonstrated measurable commitment to international legal standards. Both have ratified key treaties such as the ICCPR, CAT, and OPCAT. Kyrgyzstan's criminal code reforms in 2019, and its ratification of the Council of Europe Convention on the Transfer of Sentenced Persons in 2022, demonstrate a sustained effort to align with global penal norms. Kazakhstan, while no longer an observer to the Council of Europe, benefited from its former participation, incorporating international legal standards into its Penal Code amendments and developing its National Preventive Mechanism (PRI 2020, *UNODC in Central Asia* 2023). China, on the other hand, maintains a highly selective approach to international legal integration. Its emphasis on national sovereignty and resistance to external monitoring

reflect a broader ideological stance in which legal harmonization is seen as secondary to regime stability and ideological control (Mühlhahn 2009).

Analytically, the concept of compliance performance can help to explain these differences. In particular, we can think of performance for different audiences and compliance to different sets of norms due to differing incentive structures. Thus, China's penal policy-makers perform compliance to communist ideological principles for a domestic audience, the Communist Party of the People's Republic. In contrast, Kazakhstan and Kyrgyzstan are no longer beholden to Soviet ideology, but do perform compliance with international standards for an audience in economically powerful states in North America and Europe, both big export markets for these countries' natural resources (oil and gas in the case of Kazakhstan, gold in the case of Kyrgyzstan) and suppliers of foreign direct investment.

The case analysis suggests that penal reform is most likely to succeed when institutional ideology is weakened, allowing for the incorporation of human rights norms through multilateral legal and technical engagement. Once ideological weakening occurs (often through revolution or significant political change), humanisation reforms are more likely to be activated in cases where the states are beholden to particular geopolitical alliances and capital flow from human rights' respecting states. Kazakhstan and Kyrgyzstan are cases of such transformation, though they also offer variation between them that further lend weight to the explanatory value of the compliance-performance concept. Thus, Kyrgyzstan, the poorest and most dependent state on foreign aid, as well as the geopolitically most unstable, has the most open penal system of the three countries. China's model, in contrast, demonstrates the resilience of ideological governance in obstructing substantive penal transformation.

Several limitations of this study point to avenues for further research: more detailed financial data on the role of foreign aid in penal reform would clarify donor influence; greater exploration of sub-national prison governance could illuminate local-level implementation disparities; and investigation into the specific content of political training curricula in Chinese prisons would deepen understanding of ideological persistence. Such data would allow for a more granular analysis of how ideology and legal norm alignment interact to shape reform outcomes.

5.1. Alternative explanations and limitations.

Beyond the four structural variables, penal trajectories may also reflect domestic political competition, economic shocks and fiscal capacity, professional/legal networks, and regional diffusion dynamics. Classic norm-diffusion work alerts us to decoupling between formal commitments and practice (Hafner-Burton and Tsutsui 2005) and to mechanisms of socialization and strategic adaptation (Risse and Sikink 1999, Checkel 1999). While this article centers on structural openness and ideology, future research could integrate economic indicators (e.g., FDI flows, aid shares), sub-national variation, and elite-level political narratives to test scope conditions more rigorously. The present comparative design prioritizes transparency and cross-case comparability over causal identification, a trade-off appropriate to the data environment.

Other post-socialist jurisdictions demonstrate that criminal justice reforms can also emerge from internal political dynamics, elite competition, and domestic institutional

incentives — independent of donor pressure. These patterns suggest that external anchoring is not the sole pathway to rights-oriented penal transformation, and that internal political configurations may produce alternative reform trajectories.

6. Conclusion

This study has explored why three Eurasian states that have all had communist systems of government — Kazakhstan, Kyrgyzstan, and China — have diverged in terms of their use of prison as punishment. Using a comparative framework grounded in four structural variables — foreign donor involvement, legal norm alignment, civil society participation, and ideological persistence — the paper evaluated the form of compliance performance in each case.

The findings support the central hypothesis that divergence in penal trajectories is shaped by structural openness to external influence, likely based on geopolitical and economic factors, and the strength of ideological control. Kazakhstan and Kyrgyzstan have demonstrated measurable, albeit uneven, commitment to reform. Their engagement with international donors, alignment with global legal norms, and partial openness to civil society have facilitated incremental improvements, including the development of probation systems, adoption of non-custodial sentencing, and monitoring mechanisms through NPMs. These changes have been shaped not only by domestic reform interests but also by donor funding conditions, participation in UN treaty bodies, and, in the case of Kyrgyzstan, integration with European legal frameworks such as the Council of Europe Convention on the Transfer of Sentenced Persons.

China, by contrast, continues to resist external influence, with limited donor engagement, tightly restricted civil society activity, and prison governance deeply embedded in ideological orthodoxy. Despite symbolic reforms such as the abolishment of the *laojiao* system, China's penal institutions remain characterized by political indoctrination, coercive labor, and opacity. Its reluctance to ratify OPCAT or permit independent prison monitoring reinforces the view that its penal reform agenda is subordinated to regime stability and sovereign control.

Theoretically, this study contributes to debates in comparative penology and decolonial criminology by highlighting the importance of compliance performance for producing institutional hybridity and legal pluralism in post-socialist contexts. While Kazakhstan and Kyrgyzstan exhibit hybrid models blending Soviet legacies with selective norm diffusion, China represents a case of ideological entrenchment resisting legal convergence. These findings echo Garland's (2001) thesis that penal transformations are embedded in broader state formations and historical patterns of governance, but also affirm recent calls to situate the Global East within frameworks that account for colonial, post-socialist, and authoritarian legal inheritances (Dembour 2006, Piacentini and Slade 2024).

The implications for policy and practice are clear: meaningful penal reform in post-Soviet and hybrid regimes requires more than technical assistance or treaty ratification. It demands sustained political commitment, ideological flexibility, and embedded legal-institutional change. Donor agencies and international partners must tailor their approaches to account for local political economies, ideological barriers, and the specific

dynamics of legal adaptation. Civil society inclusion, while often constrained, remains a critical mechanism for norm internalization and prison oversight.

Practically, it shows that where ideology loosens and structured external engagement exists (donors, treaty monitoring, civil society access), incremental humanisation is more likely — even under non-democratic conditions. Where ideological projects dominate and external monitoring is resisted, reform remains largely symbolic.

Conceptually, the article situates compliance performance at the intersection of post-Soviet hybridity and global norm negotiation in the Global East, bridging comparative penology and decolonial criminology. Theoretically, these findings invite a rethinking of mainstream compliance and norm-diffusion frameworks when applied to the Global East. Classical compliance models — formulated primarily through Western liberal experiences — presume a unidirectional flow of norms and a gradual convergence toward international standards. Yet the evidence from Kazakhstan, Kyrgyzstan, and China demonstrates that compliance in semi-peripheral, post-socialist settings operates through negotiated hybridity, not linear convergence. Here, the adoption of international penal norms becomes a performative strategy of legitimacy, simultaneously directed outward (to meet donor and reputational expectations) and inward (to maintain sovereign ideological control). This ambivalent process produces what might be called strategic or selective compliance — a hybrid formation that blurs the boundary between reform and resistance.

By framing compliance as a political performance embedded in asymmetrical global relations, the article extends compliance theory beyond its Eurocentric foundations and situates it within decolonial criminology and Global East studies. The analysis suggests that penal reform in these states should not be interpreted merely as incomplete modernization, but as a distinct mode of norm negotiation shaped by historical legacies, power hierarchies, and epistemic asymmetries. This reconceptualization contributes to comparative and critical criminology by challenging the assumption of a universal trajectory of penal progress and foregrounding the agency of non-Western states in redefining what counts as “reform”.

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