

European Requirements and their Application

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1. Thank you for the invitation to this important conference. It is a great honour for me and for King's College in London where the International Centre for Prison Studies (ICPS) is based.
2. We very much welcome the initiative that the French government has taken to make penitentiary reform a key priority during its presidency of the EU, not just in France but internationally. I was fortunate to be invited by the French embassy in Ecuador to speak at a conference on human rights and prison back in September. The reforms that are underway in that small South American country - creating a ministry of justice, imposing time limits on pre trial detention, offering pardons to minor criminals, establishing institutions for juveniles entirely outside the prison system and developing a system of earned early release – are ones which we can not only support but learn something from.
3. ICPS was set up in 1997 by my predecessor as Director Professor Andrew Coyle. Our functions are two fold. (Slide 2) First to increase knowledge about the use and practice of imprisonment around the world. Second to undertake practical projects in partnership with penitentiary systems in different countries to help them improve the way they comply with international human rights instruments. Although our centre is based in London we are not interested in exporting a UK model of prison. Indeed there are some recent aspects of penal policy in England which jar with international requirements. For example the kind of cultural performances by serving

prisoners which we had the privilege to witness at this conference are unlikely to happen in England where the Minister of Justice says that these kind of activities can only take place if they are acceptable to the public, often gauging public opinion in terms of the attitudes reflected in popular newspapers. The Ministry of Justice has also decided that offenders sentenced to unpaid work in the community must wear distinctive clothing while working, again to give the public more confidence in the criminal justice system. I hope the Council of Europe Committee currently developing rules for probation services will consider whether this kind of stigmatisation is appropriate.

4. All that we do is based on international laws, standards and norms. Our key texts which are used to train staff, and guide reforms try to make those standards relevant and practical for all of those who undertake the demanding task of working in the prison and criminal justice system. (Slide 3 and 4)
5. I want to talk a bit about the norms and standards that govern the administration of prisons in Europe. (Slide 5) Some of these flow from the European Union – the recent decision that member states should work towards mutual recognition of pre trial and community supervision measures, proposals in respect of transferring foreign national prisoners and limited consideration of harmonisation of penalties. But as the Commission said in response to a European parliament resolution earlier this year on women in prison , points addressing prison conditions are mainly the member states responsibility.
6. That does not mean that member states can do as they wish in this field. The larger family of the council of Europe has developed a range of instruments to which prison administrations must have regard- the European Convention and Court of Human Rights, the European Prison Rules, the Committee for the Prevention of Torture and the 20 recommendations and 14 resolutions in the prison field passed by ministers over the last 30 years. In addition there are other European wide bodies that have issued normative statements. Last month in Kiev, the World Health Organisation Health in Prison Project issued a declaration about womens health in prison following on from last years

declaration on mental health which stated that “without urgent and comprehensive action prisons will move closer to becoming 21st century asylums full of those who most require treatment and care but who are held in unsuitable places.” The WHO has made important and concrete proposals that countries introduce diversion schemes, reception processes in prisons that assess vulnerability, for care planning systems and for adequate numbers of properly trained staff to provide these measures.

7. While it may be tempting to think that these warnings are directed at some of the newer democracies in the wider Europe, they are every bit as relevant to some of the more established members of the Council countries like the UK.
8. This paper cannot do justice to the wide range of norms so I want to say a word about two topics. First the use of imprisonment and second the practice of imprisonment . On the use of prison, there are we all know large variations in the use of prison in Europe. (Slide 6 and 7) and that these are not related in any systematic way to rates of crime. In the East, Russia with 900,000 prisoners(629 per 100,000 persons) locks up its citizens at a rate more than n fourteen times higher than Iceland.
9. The Council of Europe has something to say about the use of prison . (Slide 8) Its recommendation 22 of 1999 deals with prison overcrowding and prison population expansion. It says that on the supply side the extension of the prison estate should be exceptional. Rather, we should be looking at a more rational distribution of capacity. Institutions providing semi liberty, open prisons, home leave, and extra mural activities.
10. On the demand side, the recommendation requires efforts at decriminalising behaviour, development of alternatives to prosecution and to pre trial detention, more community sentences, the avoidance of long terms of imprisonment, greater use of parole and early release- in summary a set of policies which take account of capacity.

11. Other recent recommendations have been in the same vein such as the 2006 recommendation on pre trial detention stress that remands in custody should be used when strictly necessary and the 2008 rules for juveniles emphasise that deprivation of liberty of a juvenile shall be a measure of last resort and imposed for the shortest period.

12. How have we been doing in meeting these requirements? Well in the UK it has emerged that since 1997 we have created more than a thousand new imprisonable offences- not just criminal offences but the type of criminal offences for which a prison sentence can be imposed.. In terms of prison populations, many Western European countries have seen rises often very large rises in their prison populations. Slide 9 shows this for some countries although in the very recent years there is a divergence. The Netherlands and Germany falling. UK and Spain rising along with France. Many of our countries have been in the grip of a political competition about who can appear to be toughest on crime. This has obvious consequences for prison overcrowding (Slide 10) . Some are now charting a different path – including Portugal and Romania -d and I would suggest it is this alternative course that we must seek to press upon our leaders across Europe.

13. Such a course does not mean that no measures at all should be taken in respect of the tens of thousands of people who go in and out of prison for short periods each year. As well as a range of community sentences, there is a need for the health, education and social care systems to play their part. In England we have 83000 prisoners about half of the men and two thirds of the women have used hard drugs in the period before imprisonment. Yet e have just over 2000 residential drug treatment beds in the while country. Developing alternative infrastructure outside prison must be a priority for these and other vulnerable groups who we deal with in our prisons. For example in Scandinavia there tends to be much more in the way of drug treatment and mental health provision in the community than in the UK.

14. It is strange too is it not that across Europe we have such variation in the age at which children can be subject to prosecution, conviction and criminal

punishment and in the extent to which those in the young adult age range can be dealt with in a way which has regard to their developmental needs. (Slide 11) England and Wales does particularly badly here and its youth justice system has recently been roundly condemned both by the European Human Rights Commissioner and the UN Committee on the Rights of the Child. There is a great deal of interest in the new hybrid institutions which you have developed here in France which seek to combine the expertise and resources of the prison setting and the social welfare approach. Proposals here in France to lower the age of criminal responsibility are not however ones which go with the grain of international law.

15. Turning to the practice of imprisonment, the variations are enormous. Slide 12 shows some of the prisons we have in England. The one on the bottom right was built in 1809 to accommodate French prisoners in the Napoleonic wars and is still used. Pentonville in the centre was built in 1842 and has become a model all over the world. The prison on the bottom left perhaps looks more like a large country house- one of our open women's prisons- and contrasts with the fortress like exterior of Leicester (top left) and the modern efficiency of Belmarsh (top right). Developing requirements that apply across these various types of establishments is of course an enormous challenge.

16. I cannot begin to summarise the European Prison rules which attempt to do just that but instead want to mention four key principles that underpin them. First is normalisation the idea that as far as possible people in prison should be able to lead as normal a life as possible, losing only those rights that are a necessary part of imprisonment. In many countries there has been a well intentioned move to create more positive regimes in prison by providing more and more psychological, vocational or educational programmes. But as the governor of Ringebu prison put it in Denmark "we don't have a course on cooking- they cook every day". Normalisation should be the aim as far as possible if prisoners are to learn responsibility.

17. Second where expert interventions are needed to address the very many personal and social problems faced by prisoners, these are best provided not be

the penitentiary system itself but by mainstream health, education and welfare agencies based in the community. There can be real dangers in prisons seeking to create a parallel system of drug treatment, mental health care and education. Why? Because this can jeopardise the prison's position as a measure of last resort, encouraging judges and the public to think that the experience is doing prisoners good. It also can encourage those mainstream ministries and departments to think that people who have been in conflict with the law, are in some sense not their business. The WHO project on health in prisons published its first declaration with the title prison health is public health.

18. Third that the key principle of regimes in prison should be preparation for release, with opportunities to work and to be paid for that work in ways which both resemble conditions in the community and equip prisoners with new skills. Initiatives which do not just train prisoners but guarantee those that complete that training a job on release show particular promise. Examples are the TRANSCO scheme in the UK in which prisoners are trained to take jobs laying gas pipes – or the Tegel scheme in Germany where prisoners are given leave each year to work . The economic downturn will of course put pressure on these kind of initiatives .
19. Finally the need for adequate numbers of properly trained prison staff who are key to the development both of dynamic security, and a more rehabilitative approach to prisoners. The challenge is to obtain and use the necessary resources to be able to pay, train, deploy and support the kind of balanced, multidisciplinary staff group essential to prisons. In the UK the basic training is about 8 weeks which is a very short period in which to equip staff to deal with some of the most challenging people in the country.
20. Slides 13 and 14 show two contrasting futures. The first shows a swimming pool at new prison near Barcelona . I am not suggesting that every prison needs to have this kind of leisure facility. Politically in many countries that would be very difficult. What it reflects however is a commitment to offering prisoners genuine rehabilitation, something enshrined in the constitution of Catalonia and something approaching a normal environment in which

prisoners , like people in the community , can learn to swim.

21. Slide 14 shows a plan drawn up by a private company in the UK for a new Titan prison , for 2500 prisoners. You will see one football pitch. Perhaps the idea is a match of 1250 players in each team. There is a lively debate about these giant prisons and journalists and experts are flocking to visit Fleury Merogis to see what your experience is here in France. My understanding is that you do not want to repeat the experience of such a large establishment.

22. Which of these futures should characterise prisons in Europe? This depends upon what we should expect of prisons and the way we think about those who live in them. Prisoners of course are not randomly drawn from society . They come from the most deprived areas. We have done some mapping of where people in prison in the North East of England come from. Slide 15 shows the strong correlation with deprived communities. Many people are asking the question whether spending money taking people out of these communities for a few months only to return them is the best way of investing in public safety. Or whether there is scope for what is called justice reinvestment. If that idea takes hold we will perhaps be able to explore the proper role of prison. Here (Slide 16) is somewhere that looks like a prison but is in fact now a luxury hotel. You can pay 200 Euros a night to stay in it , Perhaps this is the future for prison and we will develop some better ways for dealing with many of those who currently go there.

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