

The "Low Cost" prison... minimum design for minimum results¹

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Chair of the conference, Mr. Lorenzo Salazar
Director General of the Belgian Prison Service,
Mr. Hans Meurisse,
Ladies and gentlemen,

Let me thank first of all thank the Council of Europe team and the Mr. Meurisse on behalf of the Belgian Prison Service, for inviting me to be here with you today.

It is difficult to speak about subjects that are in your daily agenda as I risk repeating what is already well known...

In my presentation I will speak briefly about most of the topics that we will be covered in more detail in different presentations throughout these two and a half days: over-imprisonment, overcrowding, poor detention conditions, alternative measures to imprisonment, rehabilitation, and of course, prison construction programmes...

We will be talking about different elements of penitentiary policy.

We will surely use these days to reflect on our role as policy implementation agents, policy entrepreneurs with the major responsibility to inform new policy development in the penitentiary arena.

**Ladies and gentlemen,
We all understand how we got this far...**

When family does not function... or is not there as it should be...



When school does not fulfil its function or is simply not available...



When childhood is not the one we've all dreamed to our children...



¹This text follows the presentation as it was done at the conference.

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When social support for the ones in need does not fulfil its function... or simply is not there.



...



When employment is lost or has not ever been there...



...



...

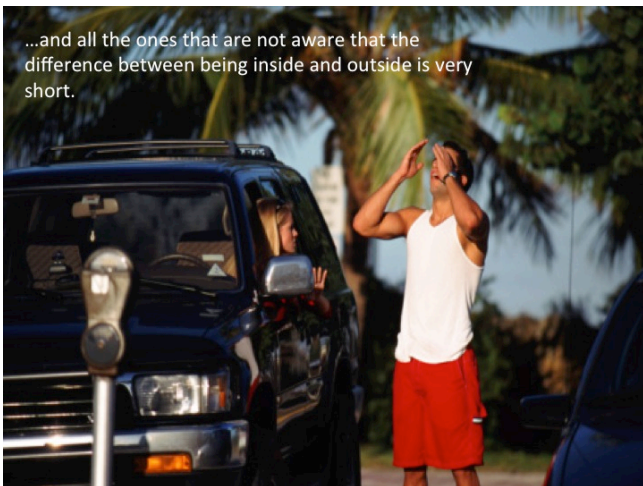


When society is unable to deal with new social phenomena...





...Or simply when people are not aware that the distance between "inside" and "outside" is very short...



Prison and probation systems are asked to solve what everybody else failed to deal with...in extraordinary conditions...

Prison and probation services are asked to solve...

...what nobody else is able to deal with...

...in extraordinary conditions.



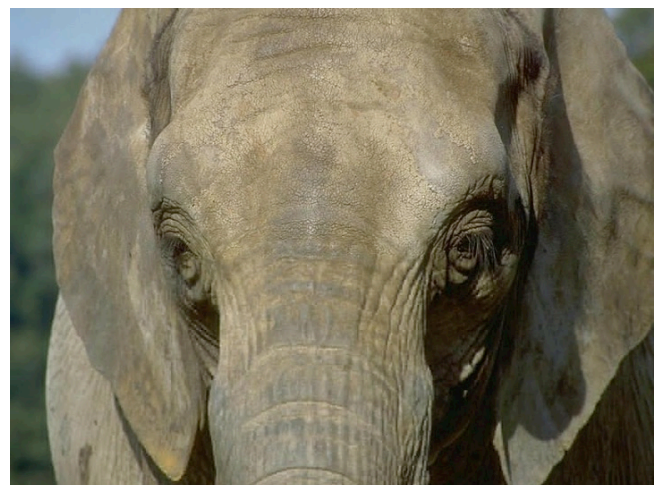
...Preparing people under custody for a possible job...



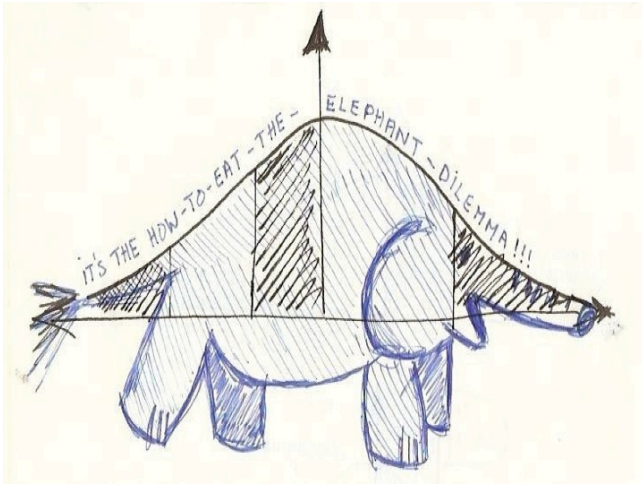
...In an economic framework that may no longer exist tomorrow, or that demands different and more complex competencies.



We have complex issues to go through...



...And not many possible ways to face them.



Ladies and gentlemen,

With a simple analysis of the statistics (provided by the Council of Europe, the ICPS or the United Nations Office on Drugs and Crime) over the past 10 years, we realize the big existing problem with prison overcrowding...

Not being a new phenomenon, we've been discussing it for a long time in meetings as the one that joins us today.

The divorce (not just the separation) between policy makers and judicial deciders – constitutionally guaranteed in most of our countries - who do not take into account the impact of sentencing decisions on prison systems, has been widely appointed as a one of the reasons for over-imprisonment in many countries.

And even though there have been considerable improvements, we all are aware of the difficulties in designing and implementing policies that aim to reduce over-imprisonment and overcrowding and explaining these to a wider public opinion that is constantly demanding for higher security measures.

- over-imprisonment
- overcrowding
- poor detention conditions
- alternative measures to imprisonment
- rehabilitation
- prison construction programmes

...WHY?

Ladies and gentlemen,

The overcrowding discussion has been in fact on the international and national policy agenda for decades!

Strategies to reduce this phenomenon have been extensively discussed and widely disseminated.

Approaches to deal with prison overcrowding refer to the reduction of admissions to prison and detention and reduction in the length of the stay.

Strategies include, among others:

- the use of alternatives to penal prosecution;
- decriminalization;
- reducing the numbers of unsentenced prisoners;
- setting targets for reducing the prison population;
- imposition sentences of imprisonment only for the most serious offences and as a last resource and for the shortest time possible;
- increased use of proven effective alternatives to imprisonment (probation, suspended prison sentences with conditions attached, electronically monitored house arrest, victim-offender-reconciliation and community service).

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Also the effects of overcrowding are quite well known...

International studies² refer that they result first of all in “**restricted living space and loss of privacy and human dignity** and then may result in a **reduction of general services to be provided in a prison facility** in order to comply with standards set for access to medical treatment, sanitary equipment, education, training or rehabilitative programs”.

Rehabilitative needs may be affected also through assigning low risk prisoners to maximum-security units because other prison space is not available. In particular sub-standard medical treatment and a degrading environment due to the spread of infectious diseases is a high risk to take into consideration.

Higher rates of suicide have been assumed to

²Albrecht, Hans-Joerg (2011). Strategies and Best Practices Against Overcrowding in Correctional Facilities. United Nations Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders (UNAFEI). Max-Planck Institute for Foreign and International Criminal Law.

follow conditions of overcrowding.

The fall of staff/inmate ratios may also have adverse consequences for personal security, the implementation of prison visits and the admission to prison leave programs.

The effects of overcrowding:

- restricted living space and loss of privacy and human dignity
- reduction of general services to be provided in a prison facility (medical treatment, sanitary equipment, education, training or rehabilitative programs).
- assignment of low risk prisoners to maximum-security units because other prison space is not available
- a degrading environment due to the spread of infectious diseases
- higher rates of suicide
- personal security, the implementation of prison visits and the admission to prison leave programs
- negative impact on family visits
- higher levels of prison violence between inmates and towards staff
- staff working conditions
- stress and situations of non-compliance of international and national standards.

The Max-Planck Institute report also refer the negative impact on family visits and an infringement on the right to family life may come as a side effect of overcrowding relief policies which result in the transfer from overcrowded facilities to less crowded but far away prisons.

Higher levels of prison violence between inmates and towards staff have been testified in several countries.

Overcrowding affects prison staff working conditions that create stress and situations of non-compliance of international and national standards.

Ladies and gentlemen,

Nothing of what we will be talking about during these days is new, but is for sure very difficult to implement!

Thinking of overcrowding solutions means – in some cases - thinking about new prison building... But prison construction programs - as a simple response to overcrowding are exceptional measures - that do not offer a long-lasting solution. Additional prison capacity may in many cases reinforce a policy of reliance on imprisonment and the deprivation of liberty as it has been seen in some countries around the world.

Construction programs are reasonable though in cases where prisons facilities are in need to be modernized (Mr. Bejan just mentioned previously the situation of prison infrastructure in Romania, and we do know that in Europe some prisons are functioning since the 19th century or in buildings not planned and not suitable for the desired purpose) as part of a comprehensive concept that includes also the implementation of alternatives to imprisonment.

Today, many countries face an economic and financial situation that does not allow the allocation of financial resources for prison construction programs. Faced with the question where to invest seriously limited resources, prisons have normally the lowest priority, as it is – as you are all aware – also very difficult to receive loans for prison construction from international financial institutions.

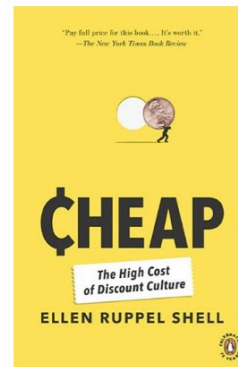
Even when financing is possible, we find ourselves in an interesting but dramatic situation where a **“low cost” culture is predominant**.

The possibility to plan a new prison opens an “opportunity window” to rethink the prison system and its rehabilitation processes.

Ladies and gentleman,

We should remember that low cost – meaning the reduction of cost by reducing features or functionalities of a product or service...but also the concept we have about what a prison should fulfill - will represent higher costs over time...

Designing new prisons – that will last at least for the next 50 years - to cope with the “minimum standards” of the 20th century will not ease your job in the 21st century...



“Designing the future to solve the present with solutions of the past – the low cost and discount culture!”

Are we planning “low cost” thinking about the minimum?

What minimum are we talking about?

Numerous, articles, reports and studies recall the problem of defining overcrowding due to the lack of an internationally consented criteria to measure it.

Overcrowding, states Dr. Albrecht³ “to a multi-dimensional assessment as the core of the overcrowding problem is located in the judgment **whether proper prison regimes, related programs of rehabilitation, health care, safety of prison inmates as well as staff and public security, kitchen and sanitary facilities, as well as visiting programs and facilities for work and education and outdoor exercise** may be operated and delivered according to established standards under certain conditions of occupancy”.

The CPT has stressed that a standard of 3m2 per prisoner does not offer a satisfactory amount of living space and has recommended adopting a standard of at least 4m2 per prisoner. It also advised that cells with less than 6m2 should be taken out of service as prisoner accommodation (the Special Rapporteur has underlined that 4m2 are in particularly not acceptable if prisoners are confined for most of the time within the cell and remain in remand prisons for extended periods of time).

³ Idem.

Are we planning “low cost” prisons, thinking about the minimum standards of the 20th century?

And what minimum are we thinking about?

How are we planning rehabilitation for the future?

How do we foresee the introduction of technology in the new prison environment of the 21st century?

Do we take that into account in our planning?

We are aware that we get in prisons the less qualified and less educated of society...

How do we think the rehabilitation and social re-integration of a 35 years old man who never saw of ever used the internet?

How does a 29 years old woman who has been in prison since she was 20 will interface with government institutions that meanwhile have gone electronic?

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The Learning Prison Report⁴ reinforces that prisoners are in an almost unique position. First, they are much more likely to be digitally excluded than the average population. Second, prison systems lag behind other public services in relation to technology in many ways but in

⁴ O'Brien, Rachel (2010). The Learning Prison. The Royal Society for the encouragement of Arts, Manufactures and Commerce. London.

particular in relation to access and modern equipment. Third, prisoners' incarceration restricts them from a wide range of learning (formal and informal) that makes future resettlement and employment much harder.

The result for most prisoners is that they will be digitally excluded...



How do these needs fit to our prison construction planning?

We must look to prison construction as an opportunity to rethink penal and penitentiary policy... as “you're not into politics (ladies and gentleman) but you are the main public policy actors in this arena...”

We could discuss penitentiary policy in the light of neo-institutionalism (namely sociological and historical institutionalism) but I do prefer to adopt the main theoretical lens of the “Multiple-streams” theory proposed by John Kingdon. I will spare you of going in detail on this matter...

Nevertheless, I should mention that Kingdon explains policy making, conceptualizing the policy process as consisting of three unrelated streams: **policies, problems and politics.**

This approach has been used for the analysis of the introduction of public policies on the agenda of governments and, despite its possible limitations, proves to be a suitable model to systematize **actors, factors and contexts that facilitate the entry of new subjects in government agenda.**

Kingdon considers that **specific policies are more likely to be adopted when the streams**

(meaning the policies, problems and politics) **are coupled or joined together in specific ways during critical moments also referred as policy windows.**

These are more likely to be coupled when policy entrepreneur's, knowing the existing problems and challenges, take advantage of “policy windows”, to influence the political discussion and setting the agenda for the development of new policies. National events, international human rights reports - as the CPT reports published recently referring poor detention conditions in some of your counties, as some defined situations in my own – may create focusing events and political windows that may allow you as political entrepreneurs to act.

If you don't, some other entrepreneurs will... and will not be necessarily pushing for your agenda.

Ladies and gentleman,

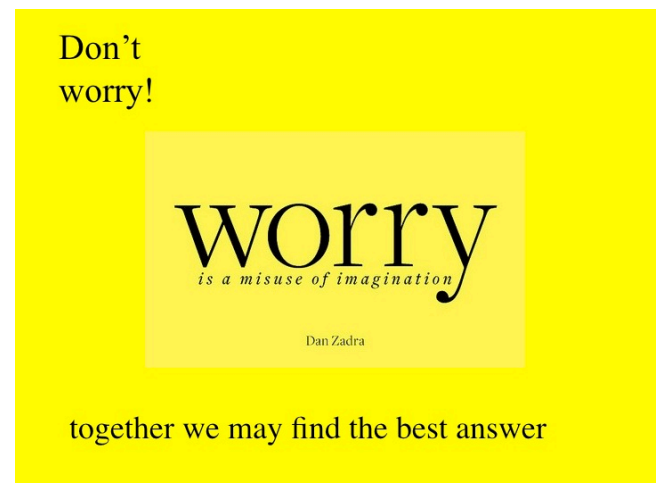
The questions that – among others - remain unanswered for me reflecting about these issues – and possibly for some of you - regarding the long lasting over-imprisonment and overcrowding discussion are:

- first of all, if the recurrent discussion about the overcrowding problems in Europe or the coming into force of the framework decision on the mutual recognition of custodial sentences are in fact “policy windows” for policy entrepreneurs (as all of you sitting in this room);
- secondly, if you (as policy entrepreneurs) will take this opportunity window to rethink penitentiary policy and act, influence policymaking... and not let other policy entrepreneurs take advantage and propose their own agenda, that may be contrary to the interests of prison administration.
- third, If we are able to resist to the low-cost, low-budget, discount culture that has been is predominating in many public administrations in Europe, leading narrowing wider visions of penitentiary policy and conditioning the impact of our work for the decades to come...



Dostoevsky stated, “**the degree of civilization in a society can be judged by entering its prisons**”. I would dare to add, “it can also be judged by the range of opportunities for change that we provide inside our prisons”...

I am sure, ladies and gentleman, that we will have the chance to reflect about these and other disturbing questions during these days... and, who knows, we will find some answers that can be collectively used to influence national and European policy making.



Thank you very much!

Pedro das Neves

Pedro das Neves holds a sociology degree and a MA in European Studies (HRD) from the College of Europe in Bruges and is currently undertaking a PhD research on Public Policy (comparative analysis of justice services and prison privatisation) at the Sociology and Public Policies School of ISCTE - IUL Lisbon University Institute. He is a guest lecturer of "Knowledge management and innovation in public services" at the masters degree on local governance at ISEC (Higher Institute of Education and Science) and has been a member of the scientific coordinating team of DEIA - Specialization degree in Organizational Learning and Innovation at INA - National Institute of Public Administration.

He has been working on public administration reform (central and local government) for more than 15 years, and on Prison Innovation Systems in different European countries. He has been coordinating major implementations in Portugal and Romania, also supporting specific projects in other European countries. Pedro has been involved in the design and implementation of innovative pilot projects lately awarded and recognized as best practices. Under this type of intervention had the opportunity to learn about the operation of 30 prison systems in 28 European countries and visit more than 160 prisons.

The main topics of interest relate to management models, prison work and industries, systems and quality standards, performance management, public vs. private management, human rights and detention conditions. Pedro has extensive experience as policy and programme advisor (EU policy and programmes, including prison systems modernization, prison work, re-settlement and ICT, international cooperation) for several prison administrations in Europe and Central and South America. On behalf of IPS he has been invited as a speaker in several international events organized by ICPA, EIPA, the European Commission and governments from different Member States. Pedro is also a board member of QUALIFY JUST IT Solutions and Consulting, LTD (IPS_Innovative Prison Systems).