

LIBYA: LEGACY OF THE PAST, PROSPECTS FOR THE FUTURE
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HUMAN RIGHTS AND THE MANAGEMENT OF LIBYAN PRISONS

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Human Rights and the Management of Libyan Prisons Project

Introduction

We are pleased to contribute to this conference about Libya, which we hope will help to promote improved understanding of the country and its people. This paper sets out a brief description of the Human Rights and Management of Libyan Prisons Project, which started in September 2004. The third phase began in April 2009 and is scheduled to continue until 2012. Our work during the past five years has given us a privileged insight into the problems that beset Libyan prisons, most of which are shared to a greater or lesser extent by every country in the world.

Our role is not to draw the attention of the international community to problems within the Libyan penal system. That is an important role for other organisations that monitor prison conditions and the plight of individual prisoners in countries across the world. Put simply, our job is to try to help the Libyan authorities improve their prisons in every practical way possible to achieve international standards for the treatment of prisoners and the management of prisons, through advice and consultancy; that is all. It has involved establishing a trust between us that, for our part, has meant proving our credentials as people who are keen to listen and learn; who have an expertise about prisons from our own experience; who are genuinely committed to the aims of the Project; and who have no other agenda than to offer advice and provide training. For their part the relevant Libyan authorities have demonstrated a transparency about their prisons and an enthusiasm for the project that makes it worthwhile. From our perspective it is crucial to be enjoying complete freedom of access to any prison and any prisoner we want to visit, even at very short notice. We are encouraged to speak with complete frankness to senior personnel and ministers. Transparency is a recurring theme of this paper but we touch on it here to explain it as a basis for the mutual trust that exists between us.

Neither of us are academics and this paper is largely free of theory. We have both worked for several decades in and around English prisons, and observed prisons in many parts of the world. We have no illusions about imprisonment. We are only too aware that, as far as most prisoners are concerned, there is no such thing as 'a good prison' and we know from our own experience that prisons are often destructive to the people who live in them. Yet prisons are necessary for every society, even though today most countries incarcerate more of their citizens than is necessary. If run properly, prisons anywhere in the world can be places where prisoners are safe, where their humanity is respected, where they can improve themselves, begin to restore their self-respect and prepare for release. On the other hand they can be the opposite of this where the worst kinds of abuse can be inflicted on prisoners and where the effect is further corruption, thus making them more of a threat to society on their release. Our overall objective in this project is one of trying to help the Libyan authorities make their prisons effective, while at the same time respecting the essential rights and needs of the Human Beings who are held in them. In Libya we are proud to work with prison professionals, politicians and members of non-governmental organisations who continue to demonstrate that they share that same interest and commitment.

The International Centre for Prison Studies

We both work for the International Centre for Prison Studies; Andy Barclay as Projects Director and Colin Allen as an Associate. During the last 18 months we have also been joined by two other Associates: Alistair Bailey, a management consultant, and Christine Fisher a specialist in prison education.

The International Centre for Prison Studies is part of the School of Law, King's College, London. It has recently celebrated its tenth birthday and seeks to assist governments and other relevant agencies to develop appropriate policies on prisons and the use of imprisonment. It carries out its work on a project or consultancy basis for international agencies, governmental and non-governmental organisations. It aims to make the results of its academic research and projects widely available to groups and individuals, both nationally and internationally, who might not normally use such work. The overall objective is to help increase an understanding of the purpose of prison and what can be expected of it.

ICPS supports and promulgates standards for the management of prisons and proper treatment of prisoners that have been formally agreed through a wide range of international covenants and instruments since the Second World War. To assist its work it has produced a handbook for prison staff entitled: "A Human Rights Approach to Prison Management." Edited by its founder, Professor Andrew Coyle, the handbook summarises the agreements and explains the implications of these international standards. It has been translated into many languages, including Arabic, so that it can be used in all our projects. Our work in Libya, as in all the other countries with which we have worked across the world, is based solely on these internationally agreed standards. Some copies of the handbook are available for you to see at this conference.

Since its inception in 1997, ICPS has worked with many different countries throughout the world. It has developed its programmes to concentrate on enabling and developing managers and staff of the prison systems to deliver the required changes and improvements. It has successfully used this approach in the various countries in which it has worked, e.g., Britain, Russia, Ukraine, Kazakhstan, Brazil, Chile, India, Croatia, Turkey, Morocco, Libya & Algeria, and others. While those principles have to be applied within the political, economic and social culture of each society, the commonality between prisons in the world is far greater than the differences, (ref: Chapter 1, [A prison is a prison], "A Sin Against the Future", Vivien Stern).

How the Project came to be

Frankly, we have no detailed knowledge of how the idea of a human rights project in Libyan prisons became a reality. All we know is that it followed detailed negotiations around Libya's decision to seek to reintegrate itself with the international community in the early part of this century. We think therefore that credit should go to the British Foreign and Commonwealth Office through its then British Ambassador in Tripoli, Anthony Layden, and his staff, for offering the Libyan authorities practical assistance in improving their prisons. Credit must also go to the staff of the Human Rights Committee of the Ghadaffi Foundation who created the essential links that made the Project a reality. Two consultants from ICPS carried out a feasibility visit to Libya in 2003 after which the terms of reference for the Project were agreed and a formal partnership entered into between the Libyan Judicial Police, the British Embassy in Tripoli and the International Centre for Prison Studies. The costs of the Project are shared between the Governments of Libya and the United Kingdom.

Libyan Prisons

The Judicial Police is the body that administers all the prisons in Libya that receive prisoners through the normal court processes, both while awaiting trial and after sentencing. When the Project started the Judicial Police was one of the fourteen police divisions within the combined Ministry of Justice and Public Security. Subsequently the Ministries divided, and in early 2005 the Judicial Police moved to the Ministry of Justice. It is now independent of other

police divisions, with its own budget. This change brought the organisation into line with International Standards. It is important to understand that the Judicial Police in Libya has wider responsibilities to serve the courts than just running the prison estate. It is not the precise equivalent of the Prison Service in England and Wales, for example. Its primary function is to execute the orders of the court, including of course running the prisons. However, it is also responsible for manning the courts, for ensuring that people turn up for hearings and for tracking down fugitives from justice, including any whom may have escaped from prison. It should be noted that it has no responsibility for managing immigration detention centres. Members of the Judicial Police who work in prisons were and continue to be trained first and foremost as policemen, not prison managers and staff. But the transfer of responsibility for the operation of the Judicial Police from the Ministry of Public Security to the Ministry of Justice sent a clear message that managing prisons was to become a central part of the function of the Judicial Police. Indeed one of the most important work-streams in this third phase of the Project is to help the Judicial Police establish its own prison-focused staff training.

We need to make clear that there are 2 large prisons in Tripoli, Abusaleem and Ain Zara 2, that are run by the Ministry of Public Security and for which at present the Judicial Police has no responsibility. These hold prisoners in executive detention, including those whom the authorities believe to be connected with terrorism and/or serious political dissension. These prisons have not yet formed part of the work of the first two phases of the Project.

The size of the prison population in Libya during the project period has stood at between 12,000 and 15,000, who are held in 34 prison establishments. The figure on 26th August was 13,809 but this was reduced significantly by the amnesty on Al-Fatah day on 1st September. These include 8 prisons for women and 1 small open industrial prison for men. We have been told that in 1993 there were approximately 6,000, rising to 7,000 in 1998, and to 9,500 in 2003. The ratio of unsentenced prisoners to sentenced prisoners in prison custody is approximately 40:60. Currently prisons are managed within the 7 branches of the Judicial Police organisation. These are Zawya, Tripoli, Sirte, Benghazi and the Green Mountains Branches, (all of which skirt the Northern coastal fringe of the Mediterranean), Western Mountains Branch, and Sebhe Branch which is on the edge of the Sahara and approximately 1000 kilometres from the capital. The prisons in Tripoli normally hold at least half of the country's prisoners while the second city of Benghazi holds a further 3000.

Prisoners under sentence of death, life sentence prisoners and those deemed to be at high risk of escape are held in a small number of Main Prisons, which receive prisoners from the higher courts. Capital punishment is a sentence that is still available to the courts for murder, though in his writings the Libyan Leader Muammar Al Gadhaffi looks forward to a time when the people will decide that it is no longer necessary. We do not know the exact number of prisoners awaiting execution or serving life sentences. Our focus is on helping the Judicial Police improve the regimes for prisoners, including those serving long sentences, for which there is a great need and scope.

There is a continual battle against overcrowding, some relief from which is provided twice a year through the Libyan tradition of granting amnesties for certain categories of prisoner to mark political and religious festivals. It is not unusual for more than a thousand prisoners to be freed on each occasion. The biggest single contributor to overcrowded prisons in Libya is the large number of migrants from countries in sub Sahara Africa and elsewhere who enter Libya with a view either to making their home there, or using the country as a staging post on their way across the Mediterranean into Europe. Large numbers of them are arrested by the police and held in prison before and after their court appearance for any number of serious or relatively minor offences. The Libyan authorities try where possible to persuade their countries of origin to accept them back through deportation but this is a difficult problem for all manner of reasons and the result is that many remain in prison for lengthy periods. They

are generally isolated from their families and are discontented that their own countries are not diligent in being prepared to receive them back. Many complain that the Libyan police arrest them because they are recognised as migrants and are dealt with summarily by the courts. It is impossible to verify or challenge these assertions and our role does not include taking up individual cases. What is undeniable however is that the high number of these migrants held in Libyan prisons makes the business of improving conditions in prison all the more difficult for the Judicial Police.

Libyan Law stipulates that juveniles, (under 18 years), will not be held in prisons but will be supervised in closed conditions by Social Services Departments. However, in the more remote parts of the country the Judicial Police have been required by the courts to receive juveniles when the local Social Services Department have been unable to provide secure accommodation. There are plans in place to rectify this situation.

The number of women held in prison is normally between 400 and 500 at any one time. Babies are born outside the prison but are then able to be looked after by their mothers inside unless/until they can be provided for by their families in the community. Difficulties arise with the children of migrants because they do not enjoy the close support of their families and are therefore more difficult to place in the community. The result is that a few of these children stay in prison with their mothers when they are really too old to do so. Libyan penal law allows children to be with their mothers until the age of two years. The children of women prisoners in Libya do not now suffer from poor physical and emotional care and recently the first unit for mothers with their babies has been opened in the largest prison for women in Tripoli, which hopefully will contribute to the older infants' developments. Greatly improved prison conditions for women in Libya are an ongoing success story and one that has been significantly influenced by this Project.

Phase 1: "Raising Awareness" (2004 – 2006)

The principal aim of the first phase of the Project was to spread the word about internationally agreed standards for running prisons as widely as possible across the Judicial Police and more generally across Libyan society. The effects of Libyan isolation from the international community during the latter part of the Twentieth Century should never be underestimated; and this is certainly the case as far as the country's prisons are concerned. Thus there was a very important educational task in helping people understand what the standards require and also helping them recognise for themselves the gap between these standards and general prison practice in Libya as it was. The other important piece of work was for us to personally visit as many prisons as possible to see at first hand what conditions were like for prisoners and staff, so that we were in a position to offer practical help and advice. There were 4 activities each year: 3 in Libya and 1 study visit to the United Kingdom. By the end of the first phase we recorded the following outcomes:

1. We visited 20 of the 34 prisons in Libya during which, through an interpreter from the British Embassy, we had free conversations with prisoners and staff. During these visits we were struck by the general lack of understanding on the part of prison directors and their staff about how prisons should be managed. Most, but not all, of the prisons we visited were in a run down condition and there seemed to be very little finance available to bring about improvements. The level of overcrowding was very high, (in some cases extreme), and, for example, there was a complete absence of employed medical staff. On the whole however prison food was satisfactory and good use was made of temporary release to give prisoners time at home to spend with their families.
2. In workshops that were held in all 7 Branches of the Judicial Police, over 100 members received training about international standards concerning the management of prisons and the treatment of prisoners. To begin with attendance at some of the workshops was

slow but gradually, with the active support of the Director General, we could feel that interest in the Project had begun to increase rapidly.

3. We selected three senior members of the Judicial Police to join us on the Project Team and trained them as competent trainers on the subject of Human Rights and the Management of Prisons. This meant that training courses could take place between our visits to Libya.
4. The Head of the Judicial Police and 20 of his staff visited prisons and attended training workshops in the United Kingdom. These were the first examples of the massive support given by the Prison Service in England and Wales to the Project.
5. The Project was publicised across Libyan society through the media, brochures, interviews and meetings with Ministers and Government Officials.

These were all important practical achievements, but undoubtedly the most important outcome of the first phase of the project was to have established an excellent working relationship between the British Embassy, the Director General of the Judicial Police and his staff and ourselves. In an interview given to the World Service of the BBC at the end of the phase we spoke frankly about the project. The gist of that interview was that conditions in Libyan prisons generally were below internationally agreed standards but there had already been some practical improvements and we were hugely impressed by the genuine enthusiasm of key personnel for the Project and their determination to bring about real improvements in Libyan prisons.

All parties were pleased with the progress made in the first 2 years of the Project and agreed to a second phase to run from 2006 – 2009. Again, it would contain 4 activities a year; 3 in Libya and 1 in the UK. The Project had been given additional impetus in 2005 through the promulgation of Libyan Penal Law 5 by the General People's Committee for Justice. It is impressive as an enabling document, stating in Article 1 that prisons are to be known as Rehabilitation and Correction Institutions, (rather than places of punishment), where education is to be offered to prisoners and where they are to be helped to become useful members of the community on their release. In all but a few of the Articles in Penal Law 5 (2005) there is reinforcement of existing international standards for the treatment of prisoners.

Phase 2: “Assessing prisons against international standards” (2006 – 2009)

With general knowledge about international standards effectively filtering through the Judicial Police by way of training workshops and the influence of key personnel, we judged that the opportunity was there for an ambitious programme in Phase 2 to stimulate progressive change in every prison in Libya. The plan was to send a trained team to each Libyan prison and conduct a staff-training workshop in human rights; carry out a programme of detailed assessment as to what in practice was happening; and produce a detailed improvement plan for the prison. The improvement plan would be sent to the Director General so that he would then know what changes needed to take place across each part of the prison estate. Over the next 2 years the following action was taken to implement the plan:

1. The 3 senior members of the Judicial Police who had previously joined us as Project Team members were given further training and became founder members of the Prison Improvement Office in the Judicial Police, working to the Director General.
2. With these members of the Prison Improvement Office we constructed a detailed methodology to assess the performance of each prison against International Standards and the Libyan Law 5.
3. Members of the Prison Improvement Office Team were then trained in how to deliver what came to be known as the Prison Improvement Package, which consisted of a

training workshop in human rights for each prison's staff, an assessment of the prison's performance and the construction of a Prison Improvement Plan.

4. From the senior ranks of the Judicial Police, the selection and training of 12 associate members of the Prison Improvement Office who formed 3 teams to deliver the Prison Improvement Package to every prison.
5. By February 2009 every prison had received the Prison Improvement Package.
6. The development of a methodology to review the progress of the improvement plans and the completion of reviews in 11 prisons.
7. We continued an intensive programme of visits to almost all the prisons in Libya, once again attempting to assess the impact of change through observation and conversations with prisoners and staff.
8. After each visit the Director General met with us to hear our comments and observations. It is worth mentioning that he did not take a defensive stance during any of these conversations; indeed in most cases he implemented our recommendations.
9. The Minister of Justice, the Head of the Judicial Police and 18 of his staff visited prisons and attended workshops in the United Kingdom.
10. The Prison Inspectorate Team from the Office of the Attorney General was included in the formal partnership arrangements. Prosecutors from the Ministry shared a training workshop with the Prison Improvement Team and became involved in the delivery of the Prison Improvement Package in prisons. They also participated in the UK study visits.

By this time a very significant momentum had been established across the Judicial Police, not least because news about prison progress was appearing frequently in Libyan newspapers. In the spirit of this momentum we decided to start to address issues that had not been identified as objectives in phase 2 but which were now crying out for attention. The first was a management development programme to help improve the performance of senior managers; this included workshops for Branch Managers and coaching for the Director General, Branch Managers and Senior Governors, as well as the start of a review of the management structure within Headquarters of the Judicial Police. At the same time a start was made in preparing the ground for a prison-focussed staff training programme for the Judicial Police. A small group from the Prison Improvement Office spent 3 weeks at the Training College of the Prison Service of England and Wales where they were introduced to the curriculum and training techniques that are in use to train prison officers in this country. A start was also made with the assistance of the Wa'atassimo Foundation to prepare the ground for the introduction of education and work training into Libyan prisons. Significant finance for buildings, transport and staffing was being made available through the Ministry of Justice. It was all fairly breathless and frankly we were more than at full stretch trying to respond to the needs that were being presented to us. At the end of Phase 2 we made the following evaluation:

1. There was a clear overall improvement in the prisons managed by the Judicial Police, though it was not uniform. Unsurprisingly the rate of improvement varied from prison to prison, with some making huge strides while others made hardly any. The most dramatic changes had taken place in prisons in or close to Tripoli and Benghazi, while the greatest need for improvements existed in prisons that were situated in more isolated parts of the country. The evaluation also concluded that a great deal of work to improve management practice was necessary if improvements were to be maintained.
2. During the Project the Ministry of Justice had invested in a large-scale programme of refurbishing over 50% of the old prisons, and building over 10 new prisons. The Project gradually impacted on the evolution of prison design, to the benefit of prisoners and staff. For example, improved living conditions, (light, ventilation, electricity supply, smaller dormitories, access to the fresh air, etc.), improved hygiene facilities, (toilets, showers, water supply and effective sewage systems), new medical units, rooms for contact visits with families, and more activity space for education, training, work and physical education.

3. In many prisons overall hygiene and cleanliness standards had improved, with new systems for the disposal of waste being introduced.
4. Medical treatment for prisoners had significantly improved with the appointment of doctors and nurses, improved supplies of drugs, and new equipment.
5. Visits that enable physical contact between prisoners and their families had been introduced in a number of prisons.
6. Staff Training sessions were taking place regularly in a number of prisons on a range of relevant subjects.
7. Many more prison social workers were being recruited.
8. Education classes were beginning in one or two establishments.
9. More workshops were opening.
10. Staff from the Office of the Attorney General were carrying out their inspection responsibilities in prisons more effectively and their work was integrated with the improvement process in prisons.
11. Prisons were becoming more accessible to the media and Non-Governmental-Organisations and other agencies were establishing constructive contact with prisons.

Phase 3: “Continuous Improvement” (2009 – 2012)

These were all very positive signs of progress and we noted a renewed optimism within the ranks of the Judicial Police. They were testimony to the seriousness with which the Libyan authorities were approaching the aims and objectives of the Project. From our own experience of prisons, however, we know only too well that what goes up like a rocket can just as easily and quickly fall to earth like a rocket if there is no fuel on board to maintain and build on the impetus established. Indeed, if a prison is not making progress it is almost certainly regressing. For that reason a proposal was put forward at the end of 2008 for a third phase which would aim to maintain the improvements that had been made and further develop regimes for prisoners which would address the requirements of Libyan Penal Law 5. The following work-streams for phase 3 were agreed between the British Embassy, the Judicial Police and ICPS. It would run from April 2009 to 2012 with the following:

1. *The continuous improvement programme:* The work that began in Phases 1 and 2 to be maintained and continued. This means implementing the Prison Improvement Plans that have been delivered in each of the 34 prisons. This will involve teams from the Prison Improvement Office paying regular visits to prisons throughout the country.
2. *Pilot Prisons:* Developing and increasing the performance of selected prisons that have already made good progress. These are to become models to others for the implementation of International Human Rights Standards in prisons.
3. *The management development programme:* Working with the Director General and headquarters staff to restructure and develop headquarters and branch offices so that they can support prisons to deliver and maintain human rights standards. This will involve continuing to coach the Director General, implementing the agreed restructuring, introducing project management, developing strategic planning and performance management at a national level, and exploring how information and computer technology can be better used.
4. *The Staff Training Project:* Helping the Judicial Police to develop a staff training organisation to provide appropriate courses for all types and levels of staff in order to give them the required knowledge and skills to implement improvements identified in Phases 1 and 2.
5. *The Prisoner Education and Work Training Project:* Developing policy, structure and delivery of education and training for prisoners in all prisons through project partnership with the Wa’atassimo Foundation, the Ministry of Education, the Ministry of Manpower and Training, outside industry and the Ministry of Justice.

6. *The Management of High Security Prisoners*: Exploring and developing policies and practices with the Libyan Authorities for the management of high security prisoners, including those associated with terrorist organisations.
7. *The Introduction of Alternatives to Prison*: Exploration of different models of community-based court disposals as alternatives to the use of prison, and the introduction of those appropriate to Libya.

Some Conclusions and Observations:

During Libya's isolation from the international community it seems not only that the prison estate deteriorated but that the people running the prisons lost touch with internationally agreed standards. However, since the start of the Project there has been a very significant impetus towards improving prison buildings and the treatment of prisoners, and developing effective management. From our perspective the credit for this should go to the policies of the Minister of Justice, the Attorney General, the Minister of Education, and the Minister of Vocational Training and Manpower, to the dynamic leadership of the Director General of the Judicial Police, and to the influential initiatives of the Ghadaffi and Wa'atassimo Foundations. It is not for us to speculate about how Libyan politics works as far as prisons are concerned – we can only comment on the outcomes that we have seen on the 17 occasions we have visited the country and met, not only the people working in the Judicial Police, but also prisoners. It seems highly unlikely that such desire for improvement could exist in the prisons without active support from the country's leaders.

As we have made clear throughout this paper our attention has been and remains focussed on helping Libya achieve international standards in its treatment of prisoners and the management of its prisons. However, we are conscious that prison improvements are taking place within a wider human rights context. For example: there is easier access for international human rights organisations; there are plans for immigration detention centre reforms; consideration is being given to the transfer of responsibility for Abusaleem and AN Zaira 2 prisons to the Judicial Police; the Ghadaffi Foundation has a very active Human Rights Committee; and the Wa'atassimo Foundation is committed to education for all Libyans. These all seem to point to the fact that Libya is a country that is moving forward as far as human rights are concerned. The scope and pace of improvements may not satisfy outside observers but we can attest that positive change in the sphere of improving the country's prisons has been real.

That is not to say that all is perfect; of course not – far from it. Progress is variable and as much progress needs to be seen in prisons outside Tripoli and Benghazi as we have seen inside. The challenge for the Libyan authorities however is to improve prison management performance at all levels. There are some star performers but not enough of them. It is one thing to improve buildings and essential services; it is another to manage them well and maintain them in good condition. It is one thing to have prison classrooms; it is another to ensure that they are fully exploited so that prisoners can spend their time in prison constructively. The answers to this problem of poor management lie in better selection and training for key managers, and a restructuring of headquarters that is able to support and influence the performance of prison directors. It is also vital that sufficient financial resources are consistently available to enable prison managers to manage effectively.

As in the vast majority of countries in the world the biggest threat to prison conditions that meet internationally agreed standards in Libya is the scourge of chronic overcrowding, mainly, in Libya's case, caused by the continuous influx of migrants from other countries in Africa. Resolving this problem is beyond the scope of this Project, except to offer help in creating alternative punishments for the courts to use to address minor offences.

We end this paper on a different note. Involvement in the Project is a huge learning experience for staff from ICPS. It is giving us a privileged insight into the cultures and traditions of this great country. We have been helped to understand much more about the importance placed on the extended family and tribal traditions and their significance as far as prisons are concerned. In Libya there is a much greater closeness in some ways between prisoners and prison staff than we are accustomed to in the UK. A watershed as far as our understanding of this took place very early in Phase 1 when we were invited to a surprise event at a big prison in Tripoli. On a typically balmy North African evening we joined over a thousand prisoners, staff and many guests on the huge exercise yard of this prison for a celebration to mark an important milestone in Libya's history. The event began with a football match between prisoners and staff; this was followed by Arabic poetry and music from prisoners and guests. There were a number of speeches, prizes for achievements and finally a pop group. The event lasted well over three hours and the spirit was excellent. As far as we were concerned it blew away any preconceptions we may have harboured about Libyan prisons. We have learned much more during the years since that event took place and we are still learning.

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