

PRIVATIZING ISRAELI PRISONS

MAJOR-GENERAL HERZEL IOSUB (RET.) – MAIKA HOLDING LTD.
AND ADVISOR TO THE MINISTRY OF PUBLIC SECURITY

Israel suffers from a perennial shortage of prison space, and current plans for building new prisons and remand centers are so far from meeting our needs that the shortage is expected to get considerably worse. This is a state of affairs that makes it both impossible for the prison authorities to respect prisoners' basic rights and difficult to enforce the law in the execution of their duty. It has also pushed the authorities to think of alternatives to imprisonment, such as electronic monitoring and expanding the use of community service sentencing. But none of these alternatives can entirely eliminate the need for extra cell space.

A survey of developments around the world in the sphere of prison construction and management brought to light that both spheres of activity were more and more being transferred to the private sector, states being unable or unwilling to increase their level of public spending. The pros and cons of privatization – whether it should be done at all, in what form and to what extent – are not simply economic matters. They open up fundamental cultural and moral issues.

Nor do the research studies on the subject point to a significant and unambiguous financial saving in every state and in every instance of privatization. The anticipated savings vary from country to country and is mainly to be attributed to differences in wage levels between prison service employees and private employees – this being the major expenditure of running the prison – and, to some extent, to the greater possibilities for initiating efficiencies in the private sector. Likewise, the private sector can be more innovative, apply a wider range of concepts of building and operating facilities, as well as to maximally exploit existing technologies. In other respects, such as the recidivism rate, the improvement of prisoner welfare, the creation of more prison workplaces, there are no studies sound enough to point to changes either for the better or the worse.

What do the researchers agree on? On the fact that the private sector builds prisons faster and that privatization catalyzes the public prison

system to make itself more efficient. The result of the latter effect is to narrow the financial efficiency gap between the two sectors, that is the gap between the cost to the state of sending a prisoner to a public or to a private prison.

Privatization can be accomplished in a number of ways, from the partial privatization (outsourcing) of certain services to a complete transfer of ownership. Many states, especially in the West, began to privatize according to one model or another many years ago. The USA, the UK, France, Australia, New Zealand and others have by now 10-20 years experience in this field. The French model privatizes logistical and welfare jobs and services while leaving security and prison management in the hands of the state (i.e., an outsourcing model). The British and the Americans have gone the way of complete privatization, with varying

degrees of public supervision and control of the private managers.

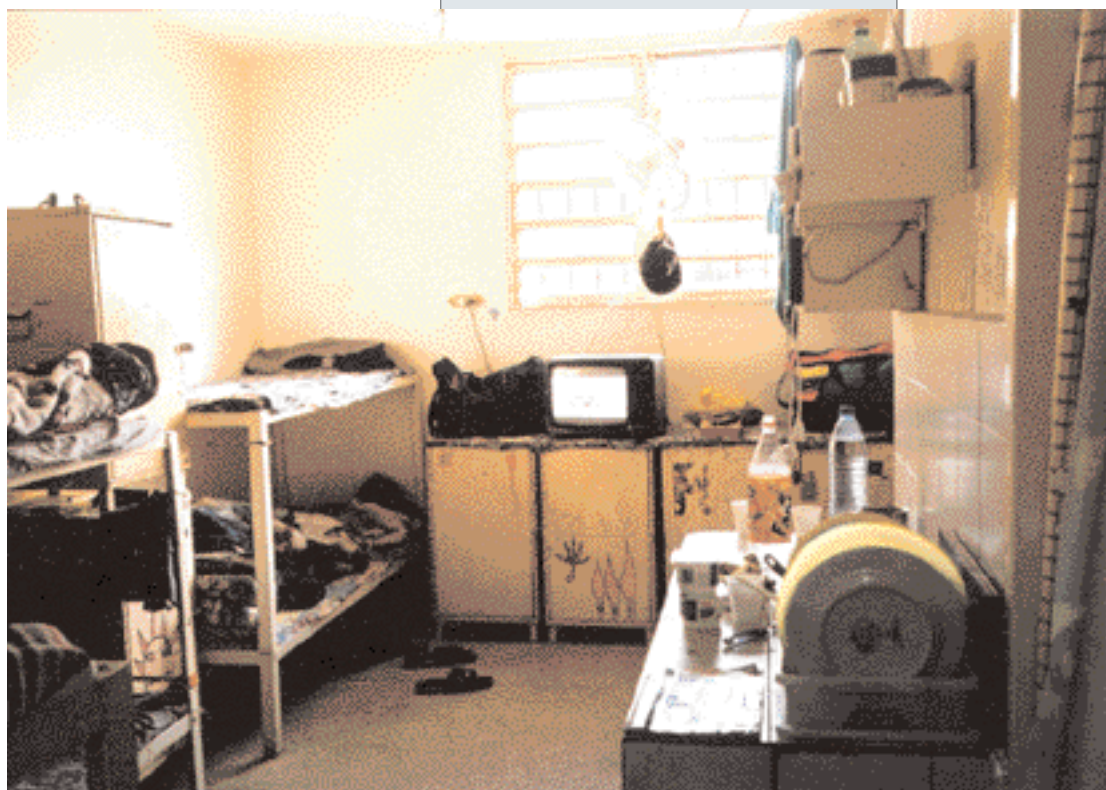
In Israel, the Ministry of Public Security and the Israel Prison Service (IPS) have been exploring the issue for several years, gathering reports and evaluations from around the world and holding local seminars, to which the world's experts were invited to share their experience and judgement with Israeli policy-makers. The conclusion finally reached is that there is no choice but to go down the privatization road. The severe shortage of cell places, the bad conditions in a large number of facilities, and the severe budgetary difficulties make no other decision tenable.

The Israeli Privatization Model

After the Ministry of Public Security and the IPS had reviewed a number of privatization models for Israel, taking into account the constraints imposed by existing

legislation and the urgent need for additional cell space, the first decision was for the mixed French model, which would have left command and control of security in the hands of the IPS and outsourced to the concessionaire all other activities and services – care and rehabilitation, logistics, maintenance and guard duties. The concessionaire would also have built the new facilities. Without doubt, this would have been a complex model to operate, given the need to arrive at collaborative management and administration arrangements, to define the performance standards expected from the entrepreneur without any mechanism to ensure that they are met, and to divide authority and responsibility between the IPS and the private operator, especially in security matters.

In order to implement the policy-makers' decision a Central Tenders Committee was appointed, headed by a





representative of the Ministry of Finance's Comptroller-General and including representatives from the Ministry of Public Security, the IPS and the Ministry of Finance Budgets Division. With the input of outside advisors the Committee began to devise an operational plan, to draw up a P.Q. (pre-qualifier requirements document) to screen the companies who would be permitted to submit tenders, and to formulate the actual call for tenders. In the course of their work, Committee members visited privatized prisons in France, Scotland and England, from which they received the clear impression that both management and financial considerations made the full privatization model under state control preferable. From what they were shown, it stood a much better chance of succeeding, both in terms of protecting prisoners' rights and in saving public money.

In light of these conclusions, it has been decided to recommend a modification of the original facilities construction plan and to begin planning the building of a private facility on the British model, that is the facility will be constructed and operated entirely by the selected entrepreneur, with the state exercising oversight through its own team of appointees. This oversight will be continuous and daily, its aim being to ensure that the new prison fulfils all the terms of the concession granted the entrepreneur under the contract with him and that the prisoners' rights suffer no impairment. The state will also retain a number of powers in its own hands, primarily the punishment of prisoners for disciplinary infractions.

The latest plan, to include a fully privatized 800-place prison constructed and operated on the terms set out above has now been given approval by the Minister of Public Security and the IPS Commissioner, while the Attorney-General has agreed to begin the process of preparing the necessary legislative amendments for the operation of a completely privatized prison under IPS supervision, passed by the Knesset (Parliament).

The key principles of the plan, which requires the complete protection of the prisoners' rights, are:

- A detailed contract will be drawn up, clearly worded in terms of results and outputs (not in terms of processes and inputs), and setting out precise and quantifiable minimum performance standards.
- Required operating procedures will be laid down and monetary fines specified for non-compliance.
- Supervision mechanisms and success indicators will be defined in advance.
- Criteria will be set determining which prisoners can be sent to the private facility, and the current prison population will be carefully classified for this purpose.
- Performance indicators will include safety and quality-of-service factors.
- Prisoners' legal rights will be fully protected, as will the interests of the public.
- The private operator will be required to draw up a care plan for prisoners, including employment and educational activities, and implementation of the plan will be strictly enforced.
- The Committee will be regularly reconvened to identify problems and draw lessons.
- Non-performance criteria shall be set out in advance for when a concessionaire must be replaced and these criteria shall be inserted into his contract.

At the time of writing, the Committee is in the process of drawing up the first call for tenders while the Attorney-General is conducting the necessary legislative program. The first tender is expected to be published by the end of 2003, and the first private prison is expected to open its doors to its first intake towards the end of 2006.

