

1997

Money and punishment: Privatising prisons

Follow this and additional works at: <http://epublications.bond.edu.au/nle>

Recommended Citation

(1997) "Money and punishment: Privatising prisons," *The National Legal Eagle*: Vol. 3: Iss. 2, Article 8.
Available at: <http://epublications.bond.edu.au/nle/vol3/iss2/8>

This Journal Article is brought to you by the Faculty of Law at ePublications@bond. It has been accepted for inclusion in The National Legal Eagle by an authorized administrator of ePublications@bond. For more information, please contact [Bond University's Repository Coordinator](#).

MONEY AND PUNISHMENT

PRIVATISING PRISONS

THE PRIVATE BUZZ

The 1990's has been heralded as the era in which governments in Australia have been 'all-a-buzz' with the concept of 'economic rationalisation'.

Faced with blow outs in their budgets, governments have been forced to consider ways in which to reduce their expenditure.

This has meant that they have sought new and more efficient ways to run public services based on private business practices. It has also meant that they have increasingly looked towards privatising public services as a solution to their economic problems.

The idea of privatising public services is not unique to Australia. It has been an increasingly popular choice of many Western governments in response to the deepening crisis in the equation of government and capital.

As a result, the role of the state has changed a great deal in several Western democracies. Services which traditionally have fallen under the responsibility of the state are now more frequently being passed over to the private sector.

CLASS RESEARCH

1. Compile a list of examples of the privatisation of public services in New South Wales.
2. Compile a list of public services in New South Wales that are proposed for privatisation.

THE PRIVATE RATIONALE

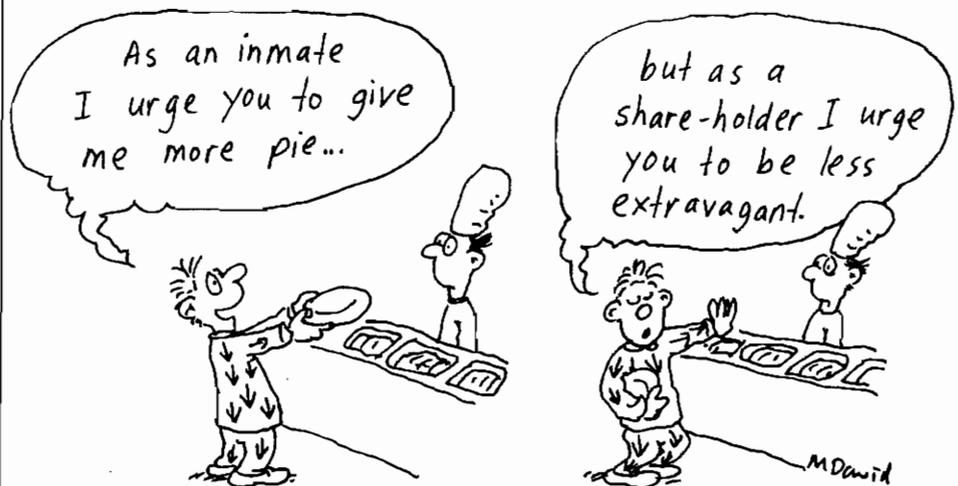
For governments the main objective for privatisation is to reduce their expenditure which includes reducing the burden of the public sector payroll. In achieving this objective, it is presumed that more money will be available to inject into public services that have been retained.

The main objective of the private sector is to expand into new markets with the obvious view of increasing profits. The private sector is capital and competition driven and as such its motivation to take over public services is unrelated to any desire on its behalf to play a socially responsible role towards the public.

DISCUSSION QUESTIONS

1. Proponents of privatisation claim that it is far more cost effective than public enterprise. On what basis do you think this claim is made? What examples might they be able to point to?
2. Do you think that it is necessarily true that all things privately run are far more efficient and cost effective than those which are government run?

Private prisons...



THE PENAL PICTURE

Historically, the state has not always held control over the running of prisons. For example, Eighteenth Century English prisons were controlled and run by jailers as a profitable enterprise. The Twentieth Century picture though, is one of state supremacy over the penal system.

However, this picture of state control is not without some private sector involvement. There are those who function for profit, primarily corporations, which have contracted with the state to deliver services such as food preparation, maintenance, management of prison industries, provision of medical care and so on.

There are also private non-profit organisations which have played a role such as providing voluntary work.

Therefore, there has been a blending of state and non state interests in the prison system.

Now, with the increasing trend towards privatisation, the picture has been changed around yet again.

Australia presently has one of the highest rates of prisoners in private prisons in the world.

PENAL PROBLEMS

Not only have states been confronted with increasing budget problems in controlling prisons, but also, with increasing problems of their overcrowding. Prisons have literally been busting at the seams with inmates.

In NSW the overcrowding has been attributed primarily to the 'truth in sentencing' legislation, which prevents early release on probation.

RESEARCH QUESTIONS

1. What does the 'truth in sentencing' legislation in NSW say?
2. When was it introduced?
3. Which government introduced it?
4. Why was it introduced?
5. Do other States or Territories in Australia have similar legislation?
6. Is there a correlation between government policies and crime rates?

DISCUSSION QUESTIONS

1. Are there any other factors, besides the 'truth in sentencing' legislation in NSW, which attribute to the overcrowding of this State's prisons?

2. If your answer is 'yes' to the above, are these present in other parts of Australia also?

THE GROWTH OF PRIVATE PRISONS

Australia's first fully private operated adult prison this century, Borallon Correctional Centre, was built near Ipswich in the south-east of Queensland and was opened in January 1990.

In 1991, four governments announced that they would be building and operating private prisons in the near future.

In March 1993 New South Wales opened its first private prison, the Junee Correctional Centre. Junee is southwest of Sydney.

In 1996 the Victorian Government closed Fairlea Women's Prison and in its place opened the first private prison for women in Australia, the Metropolitan Women's Correctional Centre at Deer Park.

MORE RESEARCH

1. Can you list any other private prisons which have been opened in Australia?
2. When did they open and what is their location and cell capacity?
3. What percentage of our prison population does this represent?
4. Do these private prisons cater for maximum security prisoners?

PENAL IDEOLOGY

There is argument that there are real problems with the privatisation of our penal system on an ideological basis.

Such argument maintains that criminal punishment should be inherently a function of the state, and that the public relies on the government to be the administrator of laws, punishment and crime control.

The fundamental ideological objection to the privatisation of prisons then, rests on the basis that the custody of those who

have breached state laws and have been sentenced by the judiciary, which is an arm of the state, should remain essentially a state function.

Given that governments make laws and through the judiciary try and punish offenders, and since prisons are integral to the punishment function of government, it is seen as inappropriate to opponents of private prisons that the state hands its punishment role over to private enterprise.

ESSAY QUESTION

"Acceptance of the law will only continue while it is enforced by the agents of the state."

Discuss with reference to the ideological opposition to the privatisation of prisons.

PENAL PROFIT

Concerns have been raised that because private prisons are run for the purpose of making a profit there will be a vested interest for private companies to keep inmates in prison.

Private prisons can directly affect remission, parole, disciplinary decisions and a number of other issues which potentially increase the length of sentence of an inmate.

Corporate employees provide reports on prisoners' behaviour and attitudes for consideration in classification, remissions, prison offences, parole and early release.

The profit motive then, may act as a driving force to prolong prisoners' sentences to keep prisons full.

PENAL ACCOUNTABILITY

The state is accountable to the public. This is primarily achieved through the ballot box. Ideally, the public is able to thwart or curtail activities of the state, such as corruption, which comes to its notice by its vote.

In the case of private corporations there is no ballot box pressure, their driving force is profit. It is argued then, that with private prisons, there are questions of accountability which need to be addressed.

ASSIGNMENT

Outline ways in which the private sector can be held accountable for its policies and work practices in the prisons it controls.

THE PUBLIC FACE OF PRIVATE PRISONS

To the public of Australia the phenomenon of private prisons has been presented in terms of private companies taking over the control of our penal system in an economically efficient and effective way.

The idea of private enterprise, with money to spend, equipping prisons with the latest security technology and rehabilitating opportunities is presented as an attractive one.

Also, there is the expectation that by handing over the control of prisons to the private sector, savings will accrue to governments which can and will be utilised in other respects for the good of the public and at the same time, the public can still feel secure that law and order is still prioritised.

THE PRIVATE FACE OF PRIVATE PRISONS

The emergence of entrepreneurial imprisonment has changed many things for those who are on the front line of its experience: the prisoners.

There are some prisoners who have violently opposed being transferred to private prisons on the basis that they are in remote places. They have argued that this means that their families and friends are unable to visit them as often because the journey is expensive, lengthy and involves going to places which can be difficult to access without private transport.

The private prison in NSW at Junee, for example, is 400 kms from Sydney while the private prison at Deer Park is 26 kilometres from the city and there is no public transport available.

One of the major difficulties for many prisoners is separation

from their family and friends and it is argued that this has been accentuated by the remoteness of private prisons.

DISCUSSION QUESTIONS

1. *Have jails always been located in easily accessible places?*
2. *What examples can you give of locations?*

There have also been changes to security techniques in some of the private prisons. In 1987 the Victorian Department of Corrective Services removed things like electronic surveillance and pneumatic doors in the Jaka Jaka security unit in Pentridge Prison because it decided that these things were oppressive.

However, in the new private women's prison in Victoria these things have been installed along with razor wire around the prison and monitor cameras which film even the most intimate activities of prisoners.

Furthermore, the private company running the prison has sought, and received, permission to use tear gas on prisoners, a situation unheard of before in Australian prisons.

ASSIGNMENT

Outline different kinds of security measures used in prisons and comment on their merits and drawbacks.

In the case of Deer Park Womens' Prison in Victoria, an issue of great concern is that children of prisoners visits are being used as a form of punishment.

Under the State control of Fairlea Womens' Prison 'all day' Saturday visits by children of prisoners were allowed. In Deer Park, under private control, the letter of the statute is enacted whereby children can visit their mother for a period of one hour a week only and even that is constantly disallowed as a disciplinary procedure.

Another variable which has had a good deal of impact on prisoners is that of rehabilitation, and the lack of it.

Claims have been made that private prisons can perform the function of rehabilitation a great deal better than public prisons.

However, it is argued that there is little evidence that extensive rehabilitation programs have been put in place. In fact, opponents of private prisons insist that in the drive to make as much money as possible, corners have been cut and rehabilitation has by and large become a victim of cost cutting.

This drive for profit, it is argued, is also responsible for the employment of staff who are not fully qualified, for inadequate staff levels and for the low wages of staff. This then, is seen to have resulted in poor working conditions, low morale of staff, a high turnover of staff and poor quality services to inmates.

ON THE HORIZON

The trend towards privatisation of prisons looks set to escalate over the coming years. It seems unlikely that the trend will be reversed, private prisons therefore appear to be here to stay.

Given this scenario, there will be advocates of privatisation and opponents who will continue to be locked in battle. It is an issue which has already raised many bouts between the different camps of opinion.

Clearly then, it is a contentious move on behalf of governments. The public's view of rightness or wrongness of this move will surely be expressed at the ballot box.

ESSAY QUESTION

"Instead of looking for ways to cut the cost of administering punishment for crimes, the government should be looking for ways to address the social problems which cause crime".

Discuss with reference to private prisons.

DEBATING TOPIC

"Private prisons threaten the impartiality of law enforcement".