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Keywords

Prison privatization; neoliberalism; new public management; public sector reform; public accountability

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Value for Money? Neoliberalism and New South Wales Prisons

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Abstract

The NSW prison sector has undergone considerable reform over the last ten years. The NSW government now oversee the operation of publicly managed prisons, one privately managed prison and a number of new public prisons operating under the new ‘Way Forward’ management model. In order to establish which approach to prison management offered the best value for money, the NSW government undertook a ‘value for money’ assessment in 2005. In this paper, we argue the cost accounting information used in the assessment process was limited and partial, and provided a poor basis on which to form policy. Even so, the NSW government has proceeded on this basis. In order to explain this, we position the report within the wider neoliberal turn in policy-making.

Classification Code: M40

Key Words: Prison privatization; neoliberalism; new public management; public sector reform; public accountability.

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Value for Money: Neoliberalism and New South Wales Prisons

In September 2005 the New South Wales Parliament's Public Accounts Committee released a report entitled "Value for Money from NSW Correctional Centres". The report considers three different approaches to correctional service delivery in New South Wales. These can be loosely categorized as public prisons; private prisons and a "way forward" model that draws on elements of both. The report is part of a global trend whereby policymakers have sought to determine which mixture of private and/or public prison arrangements are the most efficient and effective (Schicor, 1995; Cooper and Taylor, 2003; Roth, 2004; Andrew, in press).

We argue that this report is fundamentally flawed on its own terms. Although efficiency has many meanings, we posit the most significant measure of efficiency for the New South Wales government has been 'cost-effectiveness', rather than service delivery and the stated 'corrective' objectives, of incarceration. It is undeniable that cost effectiveness is important in the design of any policy, but it is only ever part of the story (Newberry and Pallot, 2003). In this case 'cost effectiveness' has been given such a central position that other issues that should be considered in the design of good prison policies have been neglected. Not only is cost considered central to the NSW government's prison policy recommendations, we show how the cost data used to build an understanding of the prison sector is flawed and based on assumptions that are not supported with externally verifiable evidence.

This paper is divided into three parts. Firstly, we discuss the content of the report and consider how the NSW Government has framed prison policy. We challenge the cost data used within the report and show that this does not present a clear foundation for policy. Secondly, we explore how neoliberalism functions within NSW Government policy processes. Using this perspective, we argue the cost focus of the NSW Government belies the strategies that are actually operating. Thirdly, we explore an alternative explanation, arguing that the paradoxical position of the government has strategic-political motivations that underpin the appeal to ‘value for money’.

1. New South Wales Prisons

Our Mission:

Managing offenders in a safe, secure and humane manner and reduce risks of re-offending

Our Vision:

Contribute to a safer community through quality correctional services

(NSW Department of Corrective Services,

www.dcs.nsw.gov.au/about_us/Mission_and_Vision.asp, accessed 17/04/2007)

The delivery, management and maintenance of prisons are no longer the exclusive domain of government. In 2007, about 17% of the overall prison population of Australia is held in a private facility (Andrew, in press). NSW has adopted incarceration policies that have led to a prison population that in 2004-2005 was about 10% above the national average (Auditor-General, 2006). At the last census date, in June 2006, NSW held the largest number of prisoners in Australia, with approximately 9,800 sentenced and

unsentenced

people

incarcerated

([Jwww.justiceaction.org.au/index.php?option=com_content&task=blogsection&id=9&Itemid=30](http://www.justiceaction.org.au/index.php?option=com_content&task=blogsection&id=9&Itemid=30), 17/4/2007). Without a doubt, NSW incarceration policies place a significant burden on the prison system, and the state now has 35 correctional centers that need to be operated and maintained. None of these centers are identical. For instance, they vary in terms of size, security level, geographical location, the age of the infrastructure, the gender of the inmates. The ability of the government to maintain and grow prisons to meet the expanding demand for prison space and services has caused considerable concern within the government.

2. The Report: Value for Money

Despite the promise of cost reduction, much evidence shows that the cost differences between state and private prisons are insignificant (Cooper and Taylor, 2005: 506; Coyle *et al*, 2003; Andrew, in press)

The Public Accounts Committee is an extension of the NSW Legislative Assembly, taking direction from Ministers or the Auditor General to scrutinize the “efficiency and effectiveness” of government activities. In April 2005, the Public Accounts Committee began an inquiry into the “value for money” of NSW correctional centers. The report states that “value for money is usually defined as the efficient, effective and economic use of resources” (Public Accounts Committee Report No.13/53 (No.156), 2005: iv), however no definition of efficiency and effectiveness is provided. Considering the complexity of issues that surround the provision of correctional centers, most

significantly their stated purpose (in NSW this is corrective) and the acceptable means through which this purpose can be obtained (such as the level of educational opportunities, work experience programs and drug rehabilitation considered appropriate to correct ‘criminal’ behaviour), it is surprising that a definition of ‘efficient and effective’ is not provided as this would help set up a basis for assessment. Although service quality and policy outcomes are essential to a determination of ‘value for money’ these are largely absent from the NSW report (2005). We argue that this absence enables the report to position cost-effectiveness at the heart of NSW prison policy and legitimizes public debate that focuses on this issue, whilst deligitimising alternative criteria for assessment, such as safety, educational outcomes, or low recidivism (in NSW about 40% of people released from prison return to serve a sentence within 2 years) (Auditor General 2002; Andrew, in press).

2.1 Cost over value?

‘Value for money’ is an increasingly popular approach to assessing the ‘value’ of current and future government policies and projects (Jacobs, 1998). Considering its significance it is surprising that it has not been clearly defined within the literature and the terms of assessment have remained ambiguous (Grimsey and Lewis, 2005). In general, value for money has involved the assessing of the cost and quality trade-off to determine the viability of a current or potential project in terms of its stated objectives. Unfortunately, for the most part this interpretation is not one that has been adopted by governments in their assessments. According to Grimsey and Lewis (2005:375) ‘the value for money test

frequently comes down to a simple, single point comparison between two procurement options...the problem is that value for money is more often than not poorly understood and often equated with the lowest cost”.

The report into the Value for Money from NSW Correctional Centres (2005) substantiates the argument that value is being equated with cost. In this report, there was no discussion of what may constitute ‘value’. Instead it was assumed throughout the report that cost and value are ostensibly synonymous. This privileging of ‘cost’ is evident from the outset and is embedded in the report’s terms of reference which begins with two objectives that state the report will make cost comparisons within and across the sector. Somewhat paradoxically, the third objective of the report focuses on the development of appropriate costing methods that enable such comparisons. It is also apparent from the terms of reference that, apart from safety considerations, other markers of ‘value’, such as the quality of the services provided, will not be the focus of the report. Specifically, the terms of reference state that the report should:

1. Focus on current initiatives and their impact on the safety and cost-effectiveness of correctional centre management;
2. Compare the cost of corrective services provided by the public and private sector.

And then,

3. Consider whether improved cost calculations on behalf of the Department of Correctional Services will enable better comparisons between the private and public sector (Public Accounts Committee, Report No.13/53 (No.156), 2005:iv).

These terms of reference offer an implicit recognition that cost comparisons cannot be made. It is well documented that the cost data available is limited and the nature of the sector makes any such direct comparison all but impossible (Roth, 2004). It is also apparent that ‘value for money’ is ill-defined and, as shall be argued, it is questionable whether realistic cost comparisons and assessments are the motivation for such a report. However, it does enable policy makers to reaffirm cost as its central policy consideration and relegate other issues into the margins of public debate (Andrew, in press). It also allows the government an opportunity to position new workplace changes to the sector in ‘neutral’ cost terms (as discussed later).

2.2 Partial Cost?

Not only does the report focus on cost rather than ‘value’, the cost data that is provided is inadequate and misleading. The report begins with an outline of inmate costs per day which represents the costs in a way that fails to acknowledge their partiality and ambiguity. The table appearing on page one of the report (Table 1, shown below), suggests the cost per day to incarcerate a person in a private prison (Junee) is almost half the cost per day of incarceration in a public prison. This table frames the discussion that

takes place in the remainder of the report, and although the limitations of this data are mentioned, it is nonetheless on this basis that the report proceeds.

		2001-02	2002-03	2003-04
Department of	Average cost per			
Corrective	inmate per day			
Services		\$167.85	\$187.00	\$187.80
June	Average cost per			
Correctional	inmate per day			
Centre		\$92.04	\$93.54	\$91.75

TABLE 1 Average Costs per Inmate (taken from the Public Accounts Committee Report, 2005)

If the information presented in Table 1 was adequate, presenting accurate and comparable cost data, it would be logical to conclude that private prisons are cheaper. If we concluded that they were cheaper, it would be possible to argue they were more efficient and therefore a better use of public funds if this were accepted as the criteria for assessment. However, the story is not this simple. Although the table may be strikingly effective in creating an impression of private prison cost effectiveness, the information is flawed on many levels.

Firstly, the representation of the average cost per inmate per day in the Junee private prison cannot be substantiated with any externally verifiable evidence. The report states in a footnote:

These figures were not in the Auditor-General's Reports to Parliament. They have been calculated by dividing the quoted annual cost amounts by the number of days in the year. This is the cost to DCS i.e the management fee plus the allocation of department overheads and not the actual cost to the private operator (Public Accounts Committee Report No.156, 2005:1)

These figures have been created for this report, yet there is no detailed explanation as to what constitutes the figure. The Auditor-General's report (2002) didn't include this figure because it was considered too difficult to determine. As the comparative data provided in this table is central to the presentation of the discussion within the report, it would seem appropriate that the Public Accounts Committee substantiate its calculation. Significantly, the allocation of departmental overheads is never completely clear and requires management accountants to make decisions as to how these should be reflected in their accounts. There is much room for distortion and manipulation here, and although the report claims the 'cost per inmate' includes overheads, we are not told what proportion of the Department of Corrective Service's overheads were attributed to the private operator. This complexity of cost allocations is widely acknowledged within the literature (Alam and Lawrence, 1994; Doost, 1997). For instance, Marshall (1994:12) argued that "when overhead is allocated, costs become politicized". Considering that the

report proceeds on this basis, it is of concern that these cost allocations are not discussed in more detail.

Secondly, the report relies heavily on the Auditor General's reports to Parliament; however, in the presentation of this cost data the report downplays the inadequacy of this information. For example, the Auditor General (2002) stated that the weighted average cost of an inmate held in one of the State's publicly run prisons in 2001-2002 was \$61,265 per year. However, the cost of an inmate held in the State's private prison at Junee was \$33,595 per year. Significantly, the Auditor General's 2002 report states that "this cost cannot be readily compared to the weighted average cost for the Department of \$61,265, as that cost incorporates additional overhead and program costs." (Auditor General, 2002:125). The nature of these overheads and program costs are not revealed, but it is clear that the calculation of the figure for Junee includes little more than the direct management of the prison. It is unclear how these figures deal with the costs incurred through the process of overseeing the individual prisons and the sector more broadly; the costs associated with contract compliance and design costs; and the cost of the building and grounds that are born by the government.

It is also apparent that Junee has been running below capacity, yet the management fee is fixed irrespective of the number of prisoners held in Junee:

Over the year, the privately operated correctional centre at Junee operated at 94.0 per cent of its capacity... The management fee is fixed, and is based on providing accommodation for 682 inmates (AG, 2002:125)

Using simple strategies, this cost data distorts the representation of the efficiency of the private operator. For instance, the cost per capita for 2001-2002 at the Junee Correctional Centre is based on a capacity of 682 prisoners, when in fact there were only 641 prisoners. Obviously, if the prison is being paid a set amount, yet needs to provide less service, the cost data will be distorted. The fact they were allowed to operate below capacity is also interesting, considering State prisons have been overcrowded, leading to other cost implications related to the maintenance of a safe, orderly prison when there are too many people in it (NSW Legislative Council, Paper No. 924, 2001).

When cost comparisons are being constructed, it is important to acknowledge that the cost per day of housing prisoners is substantially different depending on their classification. This is apparent when state operated prisons are compared to each other. These per capita cost figures vary significantly, for instance it costs \$421.79 per day to house a prisoner in the Special Purpose Centre at Long Bay, whereas it costs only \$115.01 per day at a minimum security prison (Auditor-General, 2004). This is equally true of the costs used to compare the Department of Corrective Services (DCS) to Junee. The figures appear to vary widely, with the private operator appearing substantially more cost effective; however this needs to be placed within the context of a very diverse correctional system. The fact that the figures vary widely is not evidence in and of itself,

because as we have shown, the cost figures will vary depending on the nature of the costs included in the figure and the type of prisoners/prison are being compared.

2.3 Secret Efficiencies

The actual internal operating efficiencies of the private operator are not made publicly available. The Public Accounts Committee Report states “the actual operating costs for Junee are not available as GEO is a private company that is in competition with other operators in Australia and this information is commercially sensitive” (2005:23). This statement reveals just how little evidence the government has available regarding the operational efficiencies of the private operator and what strategies it is using to meet its contractual and regulatory responsibilities, and also ensure a profit for its shareholders. This problem is not isolated to New South Wales, the Public Accounts Committee of Victoria stated that:

In the absence of public documentation, the committee cannot conclusively state whether the PPP policy is delivering value for money over the life of the projects compared with traditional procurement methods used by government (www.parliament.vic.gov.au/paec, October, 2006)

To presume efficiency and proceed on this basis is entirely insufficient, as is the argument that private operators encourage innovation if that innovation is a corporate secret and it will not be possible to use it to influence the development of the sector.

Based on this discussion we argue that the privileging of cost over value; the partiality of the costing offered within the report; and the secrecy surrounding the private operators efficiencies undermine the legitimacy of the report on its own terms. As the report proceeds on the basis of what we have shown to be inadequate, and, at times misleading, information, we suggest the report legitimizes strategic policy initiatives through the use of 'neutral' cost accounting.

Neoliberalism and NSW Prisons

It has been established that the report "Value for Money from NSW Correctional Centres" provides no sound basis for a reasonable cost comparison between the public and private forms of prison operation under the NSW Government's jurisdiction. Nonetheless, the report found that the privatised Junee prison offered superior cost effectiveness to that of the publicly managed prisons. Using this finding as a justification, the report recommended that at least one private prison should be maintained in NSW to serve as a benchmark against which the publicly operated prisons could be evaluated. The obvious question arising from this seemingly paradoxical outcome is: why did the report find the privately operated prison to be superior in terms of cost effectiveness, when insufficient evidence existed to make such a case? It is to answering this question that we now turn.

The use of private entities to provide correctional services in NSW is part of a global neo-liberal shift in policy-making. During the past twenty years, neo-liberalism has become,

albeit unevenly, the globally dominant ‘rationality of government’ (Dean & Hindess, 1998). As a theory of governance, neo-liberalism (or synonymous processes such as ‘economic rationalism’ and ‘economic reform’) argues that markets are, in general, the most efficient means of providing a host of social services traditionally undertaken by governments. The rise of neo-liberalism has seen the proliferation of processes such as privatisation, deregulation and marketisation for delivering public services. This rise is often explained as a consequence of the triumph of a particular set of ideas about policy-making (see for example Yergin & Stanislaw 1998, Pusey 1991, Funnell 2001). According to this account, the ‘Keynesian’ consensus in policy-making which prevailed in most capitalist countries during the post-WW2 boom, and which entailed a strong role for government in the regulation of economic activity, was superseded, as policy-makers came under the sway of the neo-liberal worldview. According to this argument, neo-liberalism has therefore become the dominant logic of policy-making.

Such an analysis provides one possible explanation for the findings of the “Value for Money” report. If neo-liberalism constitutes the triumph of a particular ideology, and has become the dominant logic of policy-making globally, then in prioritising the private prison model the NSW government is, it could be argued, simply following this dominant logic. The paradigmatic dominance of neo-liberalism would help explain why the government is seemingly blind to the lack of evidence which informs its decision.

In fact, this is the same general argument in relation to neo-liberalism that has been put by many of its critics. It is argued that the capture of policy making elites by neo-liberal

modes of thought helps to explain why, what such authors view as, an irrational ideology, dominates policy making. Pusey (1991, 8) for example argues that “(t)he process of reform and rationalisation is driven by an intellectual triumph of formal models over practical substance”, while Funnell (2001, 1) writes, “(t)hroughout the Western world liberal democratic governments have transformed themselves in the image of the private sector and according to the beliefs of neo-liberal ideologies”. While this explanation no doubt has some merit, it ultimately relies upon the assumption that governments have been captured by an ideology that renders them blind to their own irrational decision making processes. In this case, to decisions based upon inadequate cost accounting information.

In contrast we posit an alternative explanation that emphasises the strategic aspects of the “Value for Money” document. This is not to deny the importance of ideas in influencing policy making, nor the potentially socially deleterious and unintended consequences of neo-liberal policy, nor the potential for policy makers to make irrational and ill-conceived policy decisions. Rather, it is to go beyond such explanations and to recognise that rhetorical commitment to certain philosophies of government – such as neo-liberalism or new public management – often belies the strategic-political motivations that underpin policy decisions.

The “Way Forward”

(t)the proposed cost savings were illusory. Furthermore, the underlying objectives driving the proposals...were more complex than the apparently transparent aim of saving money and providing value for money (VFM). Behind the rhetoric we discern the erosion of public sector pay and conditions and the transfer of wealth from the public to private sector through the perpetuation of a particular type of prison regime (Cooper and Taylor, 2005: 501).

The previous discussion has illustrated how the cost data presented provides an inadequate basis of assessment. However, this data plays a vital role in constituting the terms of debate, offering visibility and legitimacy to cost comparisons that are partial at best. It also legitimizes the development of 'cost minimization' strategies, making significant reforms possible within a debate that has been captured by these terms.

We argue that this is strategic and is not an accidental consequence of policy investigations and government reports. It is the inevitable consequence of reports that are framed almost entirely within the limited parameters of cost effectiveness. One outcome of this has been the development of the 'Way Forward' Workplace reform within the public prison system, which has been operating in the State's two new prisons at Kempsey and Dillwynia since 2004.

According to the report, the 'main benefits' of the 'Way Forward' model are:

reduced overtime, reduced sick leave and streamlining of operational functions. This has resulted in significant cost savings when compared with correctional centers operating under the traditional model. Other advantages include improved security and safety for both staff

and inmates and increased rehabilitation opportunities (Public Accounts Committee, 2005:15).

While greater cost efficiency is the acknowledged aim of the ‘Way Forward’ model, a closer reading of the ‘Value for Money’ report reveals a broader agenda. The report states that Memorandums of Understanding based upon the ‘Way Forward Model’ will be introduced in the future to replace existing ‘Operational Agreements’ in order to:

- Consult staff on matters related to safety and workplace relations;
- Increase flexibility of management to pursue operational and economic key performance measures; and
- Reduce the union focus on maximizing overtime in future award negotiations (Public Accounts Committee, 2005:16)

The last two points are revealing. They suggest that the broader goals of the “Way Forward” program are greater managerial flexibility and a reduction in the purview of union demands. Increased managerial flexibility is noted in the document as an outcome of the “Way Forward” model. For example, the ‘let go and ‘lock in’ process “allows more flexibility in managing staff resources ... This has resulted in overtime not being the only solution to staff shortages” (Public Accounts Committee Report, 2005: 17). Similarly, changes to the operation of court cells within correctional centres means that: “staff can be redeployed between centres and court cells to meet needs on a day to day basis. This will allow greater flexibility in staff management and reduce operating costs” (Public Accounts Committee Report, 2005: 18). Furthermore, the proposed centralization of staff rostering under the ‘Way Forward’ model gives greater power for the DCS to

manage staff hours without incurring overtime costs and curtails the ability of prison staff to influence rostering decisions. The Way Forward model therefore points to a regime of greater managerial prerogatives, increased flexibility of management in the deployment of labour, potential cost savings through the reduction in over-time and sick leave, and a diminution in union influence over these issues.

These reforms were negotiated using data that illustrated the cost-effectiveness of the private model, and the labour-related inefficiencies of the public model. Throughout these negotiations the government maintained its right to offer the new prisons to private tenders if the negotiations were not successful. In effect, it seems that the government used the possibility of further privatization as a threat to discipline the union representing prison staff into ceding to the government's Way Forward model. There is implicit acknowledgement of this in the 'Value for Money Report':

There was early speculation that the new correctional centres at Kempsey and Dilwynia would be privatized. Around the same time, DCS was negotiating with the Prison Officers Vocational Branch (POVB) of the Public Service Association to introduce the 'Way Forward' workplace reform to improve the efficiency and effectiveness of the public system. The negotiations with the union proved successful and a new consent award was established to cover these new facilities. Subsequently in March 2004, the NSW Government approved the public operation of the new correctional centres' (Public Accounts Committee Report, 2005: 19).

In light of this, the cost-effectiveness of the private sector is almost irrelevant – the maintenance of an alternative prison policy possibility offers the government a tool to

instigate workplace reform, whilst maintaining an appearance of rationality and neutrality (Dillard, 1991). This is embodied in one of the report's key recommendations:

Recommendation 4: The Government should maintain at least one private prison in the State for the purposes of benchmarking the performance of publicly operated centres and to encourage the development of innovative management strategies" (Public Accounts Committee, 2005:v11).

If we can rule out cost effectiveness as the primary purpose for maintaining private prisons in NSW, the more revealing issues relate to workplace reforms. The existence of the private prison at Junee acted as a disciplinary device to pressure the union into accepting the "Way Forward" model which ceded greater flexibility and prerogative to prison management and reduced the influence of the union over staffing. We contend that the government's support for the maintenance of 'at least one private prison', in the absence of meaningful cost data, was on the basis of the continuing disciplinary effects it would have upon the union, and therefore the leverage it would grant the government in extending its workplace reform agenda. In this context, the private prison acts as a form of 'indirect regulation', meaning "the capacity of the state to regulate through a range of alternative mechanisms other than formal rules" (Gahan and Brosnan, 2006: 133). In this case, privatization is used for the indirect regulation of labour by the state.

That such processes might occur under a system of neo-liberalism is consonant with recent scholarly literature. A number of theorists, for example, note the discrepancy between the ideology of neo-liberalism, and the policies enacted by neo-liberal

governments (Anderson, 1999; Brenner and Theodore, 2002; Cahill & Beder, 2005; Harvey, 2005). Indeed, a striking feature of neo-liberal policy-making globally has been the construction of a new and pervasive set of regulatory apparatuses. While the “retreat of the state” (Strange, 1996) has often been understood as a consequence of neo-liberalism, the experience of the last twenty years has been the reconfiguration, not the diminution, of state regulations (Harvey 2005, 78; Cahill & Beder, 2005). It was such observations that led Brenner and Theodore (2002) to coin the term “actually existing neo-liberalism”, in order to distinguish the real-world policy regimes of neo-liberal states from the predicted outcomes of neo-liberalism put forward by many of its supporters and detractors alike. Similarly, Anderson (1999) argues that the neo-liberal process of ‘deregulation’ often entails a social and market “re-regulation”.

It is through such a conception of neo-liberalism that, we argue, a more nuanced understanding of the “Value for Money” document is possible. Close examination of the “Value for Money” report reveals the operation of “actually existing” neo-liberal processes that re-regulate labour in the interests of management. This is in keeping with scholarly analysis of neo-liberal labour market deregulation in Australia, which argues that governments have been empowered to regulate labour in a range of new ways (Anderson, 1999; Ellem, 2006). That the NSW correctional system embodies a hybrid model of privatized and government operated prisons is in keeping with the ‘uneven geographical development of neo-liberalism’ (Harvey, 2005).

Conclusion

A critical examination of the NSW Government's "Value for Money" report into prisons reveals that the cost data presented in this report provides an inadequate basis for policy decisions about the appropriate mix of public and private management of prisons in NSW. That the cost data was found wanting prompts the question of why the privatized model of prison management was held to deliver superior 'value for money'. One possible answer to this question is that the Government has been influenced by neo-liberal theories of policy-making to such an extent that it prioritizes private over public forms of management even when there is little cost-data to support the neo-liberal belief that privatized modes of service delivery are inherently more efficient than public modes. While not denying the influence of neo-liberal ideology upon policy-makers, this article has argued that a more plausible explanation is to be found in the disciplinary leverage afforded to the government over unions in negotiations over workplace reform through the ongoing existence of a privatized prison in NSW. This highlights the ways in which the presentation of accounting information can mask power relations and political agendas, and therefore that critical-analytical tools have an important role to play in their interpretation.

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