

The Unions' View of Privatizing Corrections

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The Nova Scotia Government Employees Union (NSGEU) is the largest labour union in Nova Scotia. We have 17,000 members, employed throughout the province in a wide diversity of occupations; 400 of our members work in corrections. The NSGEU is a component of the National Union of Public and General Employees (NUPGE), Canada's second-largest labour union. NUPGE has 308,000 members across the country, 15,000 of whom are employed with justice and corrections departments of 8 provincial governments.

Just under 60 percent of NSGEU's members are *not* directly employed by our provincial government. I mention this because sometimes people seem to think that we oppose privatization because we live in fear of private sector employers. They think we cannot function in the private sector. That is simply not true. NSGEU can and *does* operate in the private sector.

Others think that what we have to say about privatization is based on some sort of rigid opposition to change. Our members, in both the public and private sectors, are not necessarily against

Notes will be found on pages 105–06.

change but they want to make sure that the types of changes that are being made are appropriate in the given circumstances. Most importantly, they want to make sure that when changes are made, they will actually result in better programs and services.

Our members, who work on the front lines, usually know where the problems are and what changes are required to turn things around. That is the message we have been conveying to successive Nova Scotia governments over the years when they have announced programs directed at improving the way public services are delivered. If the current government asked us about improving the way correctional services are delivered, we would gladly talk to them about the three main problem areas that sometimes exist in relation to prisons:

- the costs of incarceration
- the need for improved management
- the possibility that, with a hardening societal attitude towards perpetrators of crime, some of our facilities could eventually become strained, as is the case in some American institutions.

We would also tell them that these problems are not a serious concern in Nova Scotia—or in other Canadian provinces—and that if they are in any way considering privatizing prisons to address these or other perceived problems, government policy-makers are on the wrong track.

We would go even further. We would tell our policy makers that the only benefit from privatizing prisons would be to make somebody a lot of money while making those prisons run a lot less effectively and making them far less accountable to both the public and the government it elected.

The issues

I would like to review briefly some of the issues that are relevant to prison privatization.

Costs and efficiencies

The main argument advanced by those who would privatize prisons is that they can do the job more cheaply and more efficiently. In this era of debt and deficit cutting, this argument can sound appealing to governments who feel themselves strapped for cash.

The cost issue raises several questions in my mind. First, can the private sector actually deliver the same service, or a better service, at lower costs? I have seen evidence that says that it can, and I have seen other evidence that says it cannot.¹ If you read the literature and examine the data in any detail, however, you begin to recognize that the cost issue can be argued either way, depending on what data you use, what the data include and exclude, and who is using the data (and for what purpose). In other words, when somebody gives you assurances that their way of delivering correctional services does so at a lower cost, that should not necessarily be taken as the definitive word on the subject. When somebody says they can deliver correctional services at a lower cost, here are some of the questions governments should be asking:²

- (1) Assuming correctional costs go down with private contractors, what happens to indirect costs, such as the cost of administering and monitoring contracts, auditing, legal bills, and so on?
- (2) What about insurance costs? Does the government that contracts out the prison (and the taxpayers to whom it is responsible) get stuck with these bills? Even if the private sector firm says it will be responsible for insurance costs, this may not happen. In some cases in the United States, the private corrections company was not able to qualify for the amount of liability insurance it needed.
- (3) What about cost overruns? Who is responsible when these occur? Is it the government that signed the contract with the private sector firm?
- (4) What happens when a private sector firm gets into financial difficulty? If it wants the privatized prison to keep running, the relevant government can hardly refuse to bail out the private sector firm. In such situations, the government may also feel it has no choice but to ease some of its contractual standards and requirements to help reduce the firm's costs of running the prison (and help turn its financial problems around).
- (5) Similarly, what happens when a government decides, after contracting with a private sector company to construct and/

or run a prison for a period of time, to return the prison to the public sector (Donahue 1988)? Private prison operators generally will make substantial start-up investments to begin operations, and accordingly will demand multi-year contracts. If the relevant government then decides to opt out of the contract, there may be substantial costs involved, both in terms of getting out of the contract (penalties could be included, for example) and in changing the management of the institution (a change in management is likely to be awkward at best, disruptive at worst).

- (6) What types of prisoners are you talking about? If private prisons deal only with “model” prisoners who have been screened for behavioural and health problems prior to being sent there, you may be comparing apples and oranges when you say that private sector costs are lower.³
- (7) What about the incentive for profit-making firms to cut corners to increase their profits? As we have learned from far too many of our corporations in recent years—even many that are highly profitable—there is far too much focus on cost cutting to try to augment the bottom line in today’s business environment. In this environment, to what extent will Boards of Directors and large shareholders of private prison firms accept lower than expected profits, even where the “excuse” is that public safety and the humane treatment of inmates demand that extra expenditures to be incurred? That this may not be a far-fetched concern, consider the following examples.
 - A 1990 audit of four privately-run facilities in Texas found that operators had failed to implement promised educational and job-training programs; that work programs did not keep inmates occupied the entire day, that there was minimum participation in substance abuse programs; and that several positions had been vacant to save on salary costs (Gonzalez 1990a, 1990b; Ward 1990; cited in Lampkin 1991).
 - Fred Gaines, 52, was laid off from his job as an assembler of computer circuit boards, because of “budgetary constraint.” Yet a few months later, Wackenhut announced that its former assembly operation (where Mr.

Gaines had been employed) was being transferred to the Lockhart Work Program Facility in Lockhart, Texas, a private prison managed by a subsidiary of Wackenhut (Shelton 1996). In other words, in its quest for additional profits, Wackenhut used a captive work force at one of the prisons it operated to do the work of workers formerly employed at another Wackenhut company. When I first heard about this, I remembered that after the American Civil War, prison labour came to be looked on as a substitute for slaves (see Cunniff 1985). Private-sector firms, who graciously took responsibility for operating prisons, took advantage of the cheap labour provided by inmates, just as slave owners had done in the American south. Is history repeating itself?

Before closing this section let us deal with what I consider to be the major issue. Assuming the above issues (and others) can be dealt with satisfactorily, there are only two basic ways of reducing costs: reducing wages⁴ and reducing costs of housing inmates.

Should we be using lower-paid "rent-a-cops" to deal with inmates. For, once the business of building a prison is over, the business of corrections is a highly labour-intensive pursuit (Keating 1985. The vast bulk of the money required to incarcerate prisoners goes towards the extraordinary demands of maintaining 24-hour supervision, seven days a week. Correctional systems across Canada and the United States have already tapped every source of correctional expertise as well as the management skills gained in accounting courses and MBA programs to make improvements. This means that the only remaining way of reducing corrections costs is to be less selective in hiring, to reduce the salaries and benefits of correctional staff, and to cut back on the training provided both initially and on-the-job.

Second, we have to ask what privatization-oriented operators are talking about when they speak of reducing the costs of housing inmates. Are they talking about housing inmates in more crowded facilities, while complying with minimum standards, with all that means for inmate morale, and increasing the possibility of prison riots by unhappy inmates? Are they talking about cutting back on the quality or quantity of food, on physical activities or facilities, or other things? Are they talking about keeping

prisoners in their cells a lot more, to cut back on prison guards? How will inmates react to these changes? All this must be investigated more fully, before we talk about privatizing prisons.

Abuses

The second issue relevant to prison privatization is that of the abuses that have occurred. The supporters of private sector prisons will assure us that most of these institutions have few (if any) cases of abuse associated with them. I do not doubt for a minute that there are many cases of well-run, abuse-free, privately-run institutions. On the other hand, I am personally quite uneasy by the number of instances I have heard about where there *has* been abuse in private sector prisons. Before they go any further than they already have in considering the appropriateness of privatized prisons in Canada, policy makers in government (and the politicians behind them) will have to look into situations where abuses have occurred and be certain that adequate safeguards exist to prevent them from occurring here.

Here are some of the abuses we have found documented:

- (1) In August, 1995, Christopher Quinn and Mark Vosburgh of the Orlando Sentinel reported that security companies like Wackenhut and Borg Warner Protective Services were hiring former law enforcement officers with blemished records (Quinn and Vosburgh 1995). The reporters checked backgrounds of 20 rest-area guards and found that 14 had lost their badges. According to this report, Wackenhut had been told of the problem in 1994 but took no action. One guard was posted at a rest stop despite admitting on his job application that he had been convicted of two felonies. Two managers hid personnel files containing spotty background checks, fearing a state audit.
- (2) A tip to Texas authorities in late 1993 exposed widespread corruption in the Texas Commission of Alcohol and Drug Abuse. Thirty drug treatment centres, including a Wackenhut-run program, are now suspected of diverting state funds intended for drug programs. In all, Wackenhut is accused of diverting US\$700,000 in state funds intended for drug programs at a treatment centre for inmates awaiting parole (Dymmock 1995; Richardson 1995).

- (3) Wackenhut Corrections suspended a prison supervisor in Florida after learning that he had previously been suspended for having sex with a prisoner. Although the male inmate was an adult, the August 1995 incident raises serious questions about how carefully Wackenhut screens its employees. Wackenhut said that its record is not that bad although it also said that it is now working to tighten up its background checks (Monchuk 1995).
- (4) In June 1995, Esmore Correctional Services Inc., which operates four private prisons in the United States, faced a riot by 300 immigrants at the INS processing centre in Elizabeth, New Jersey, who rebelled against inhumane conditions. These men and women were stored in a converted warehouse where they were underfed, sexually mistreated and subjected to daily brutality and abuse. After a six-hour riot, these prisoners were transferred to other facilities. Shortly afterward, the Elizabeth facility was closed down (Shelton 1996).
- (5) Iris Stiff, a Houston socialite, was robbed and strangled in her office by an employee of a private security firm, who was found to have been a convicted felon imprisoned for, among other things, killing his three-year-old son. The original suspect was another security guard at the building, also an ex-convict, who had served 40 months in an Ohio prison (Reavis 1992).
- (6) When Charles Benton, an employee of a private security firm proposing to build a maximum security penitentiary near Pittsburgh, was warden of Lewisburg Federal penitentiary, he was among a group of prison officials found by a United States Federal jury to have "inflicted cruel and unusual punishment on two inmates," who testified to having been "beaten with axe handles while they were handcuffed and shackled" (Tolchin 1985).
- (7) The Corrections Corporation of America filled space in a New Mexico jail by bringing in prisoners from Oregon. Among the convicts were murderers, rapists, and kidnapers but the Corporation failed to inform either the County Commission or the County Sheriff of its actions (Lampkin 1991). What does this say about public safety, when hard-core

criminals are transferred between institutions in the same way as large firms transfer goods and services between branch offices?

- (8) There have been shocking disclosures of sexual abuse of children in private day care centres and patient abuse in nursing homes. I wonder how would we ensure that workers in privately run prisons, who are often under much greater stress than day care centre workers and nursing home caregivers, did not abuse inmates?

Conflict of interest

There are two issues that are of concern.⁵ The first is the question of what we expect from the prison system. Imprisonment isn't just about housing bodies cheaply, while complying with minimum standards. It also includes the need to rehabilitate people, so that they do not repeat their crimes (or other crimes). Sometimes prisons are successful in this objective: at other times, they are not so successful.

The problem with private-sector prisons is that there is a marked conflict of interest between the goals of housing inmates and rehabilitating them. If private prisons are successful in reducing the number of repeat offenders and deterring others from committing similar crimes, they in effect reduce the supply of profit producing "customers." Public-sector institutions have no such conflict and can address the rehabilitation goal with no fears about reducing their clientele.

The second issue is that prison privatization inevitably causes a "prison lobby" to emerge, concerned not with social welfare but with increasing its own profits. Sentencing guidelines, parole rules, correctional budgets, and new criminal legislation are areas in which private prison operators have a vested interest. As such, they could very well come to influence society's policy decisions in these very sensitive areas.

Powers of a peace officer

Prison guards are "peace officers," as defined in the Criminal Code. Persons meeting that definition are granted extraordinary powers in relation to other citizens in society. My question is: to what extent are we willing to delegate the powers exercised by peace officers to security guards employed in privately run pris-

ons? I personally feel quite uneasy about this; the ramifications of such actions must be examined quite comprehensively before we allow this to occur (if we allow it to occur at all).

What are we saying about ourselves as a society?

There is an implicit assumption when we talk about privatizing corrections that this service can be defined in a manner similar to other commodities.⁶ There is also an assumption that with the service defined, and the terms of delivery specified in a contract, contractors will be pretty much left to their own devices in providing the product.

That simply is not true. Incarceration is the most intrusive act government can take against an individual. The reason is that incarceration deprives people of their freedom. When incarcerated, individuals are no longer free to make even the most basic of decisions, i.e., where to eat, sleep, wash, and so on. These decisions are made by the people running the facility. The inmate is under total control of the correctional institution, and that control is achieved by force. Even if the force may be rarely invoked, its presence is always felt.

One wonders, therefore, about the kind of statement a government is making about itself when, after invoking its mechanism of social control to incarcerate an individual, it then turns convicted offenders over to a profit-making firm to administer its punishment. One also wonders about the values the government holds when it makes the administration of punishment a money-making proposition. Does it want to emphasize mercenary values such as profit, as opposed to fairness, equity, and personal accountability? Is our society simply a marketplace, where money drives its decisions on a highly sensitive and potentially controversial issue like depriving people of their personal freedom? I do not think so.

My tour of American facilities

In October, 1995, I accepted an invitation to visit a number of privatized prisons in Tennessee, Florida, Louisiana, and Texas, together with several senior government people involved with the Nova Scotia corrections system. We also visited the headquarters of the Corrections Corporations of America (CCA) in Nashville, Tennessee, and of Wackenhut in Coral Gables, Florida. During our tour, we were able to speak with a number of senior

corporate and government officials as well as with front-line corrections workers, inmates, and others.

From what I have said so far, it should be obvious that I was highly suspicious of prison privatization before I went on this tour and readers might be asking themselves why I decided to go. One reason is that our members are not necessarily against change—if those changes will actually result in better programs and services. As the president of a union representing corrections workers in Nova Scotia, I felt a responsibility to determine whether better programs and services could be provided by privatized prisons, despite what I had heard (and what our members and the members of our sister unions in the United States had told me.) In other words, I felt that I should gain as objective an assessment of privatized prisons as I could.

What were my impressions? On the positive side, I was certainly made aware of the existence of well-designed, well-run prisons, satisfied front-line workers, and inmates who felt secure in the facilities in which they were housed. There were also several instances where we were told of cost savings—mostly from eliminating “red tape” in purchasing—although I was unable to determine how true those claims were.

But there were also things that troubled me, and were the more troubling because I was aware that the people we were visiting had chosen institutions for us to tour that would give a good impression. I thought: if these things were so evident when we were being given a kind of “sanitized” view of prison privatization, what would we have found if we had gone on our own? Is this the best they can do? Here are some examples of what I mean:

- (1) The chairman and chief executive officer of CCA said that the risk of personal safety as a result of corrections officers being in a dormitory with large numbers of inmates was not within the company’s top ten concerns. However, this was strongly disputed by a deputy sheriff familiar with a local prison run by CCA, who said personal safety was the second most important concern after money. In the situation I observed, one corrections officer was in a dormitory with 104 inmates, the dormitory had many hidden areas and, if an altercation were to occur, this employee would have been in extreme danger.

- (2) Although this CCA Chairman spoke glowingly about the stock options and benefits offered to employees, we later found out that only upper levels of management can usually take advantage of them. In fact, in Davidson County, Florida, 80 percent of the employees who had been hired recently by the county were former CCA employees who had left because the county offered better wages, security, and a better pension plan.
- (3) A contract administrator for Bay County, Florida, whose responsibilities were to oversee the contracts with CCA, told us he had “no idea and didn’t care” how many staff were employed in the county’s jails, even though this was one of his key responsibilities.
- (4) One floor of the Bay County Jail was closed down and had no inmates while, to keep staffing levels down, inmates slept on mattresses in the hallway on another floor.
- (5) Wackenhut headquarters officials seemed unduly defensive about funding issues in Kyle, Texas and Key West, Florida. In the Kyle case, there had been a discrepancy of some US\$700,000 in program funds. I left the meeting extremely uneasy because we had discussed very little else.
- (6) As a result of our tour of three Louisiana facilities (all publicly owned but one operated by the state, a second by CCA and a third by Wackenhut) the state-operated centre appeared to have the greatest number of security staff and the highest level of pay and benefits. The state-operated centre was also the only one that had never had an escape. The privately operated centres, on the other hand, were brightly painted, cleaner, and well-landscaped.
- (7) Inmates said that they felt safer and more secure in the state-operated facility because security levels were much higher. They felt that in the privately run facilities, inmates and gangs were in control and that this was accepted by the operator of the facility as long as this did not interfere with profits.
- (8) We were given a tour of the Kyle New Vision Facility operated by Wackenhut in Kyle, Texas. This is a pre-release facility where inmates are sent for programs prior to their

release and its programs included counselling for drug addiction and violent behaviour. With a smaller prison population, however, this type of “segregated” prison would not be relevant to Nova Scotia.

- (9) The facility operated by Wackenhut in Lockhart, Texas screened inmates to assure that they got the “best” of the bunch. Three businesses operate from this facility, which pays inmates minimum wages for what is often specialized work.

On balance, after making this trip I found that my concerns outlined in the earlier sections of this paper were quite valid, and even more so because we had been shown institutions that had the best chance of impressing us.

Conclusion

A number of years ago, economist John Kenneth Galbraith coined the term “conventional wisdom.” Conventional wisdom refers to a series of policies and principles that everybody knows must be true. Having accepted that, there is also a perception that other viewpoints must be wrong and that alternative solutions to problems must remain unexplored. In other words, by accepting some policies and principles as being true, we shut out others that may in fact be far superior.

This is not merely a theoretical concept. The Nova Scotia Government Employees Union is extremely concerned about the conventional wisdom that has seized hold of much Canadian thinking about the economy and the role of the public sector and public-sector institutions in the economy.

That conventional wisdom has several main principles, which can be summarized as follows:

- (1) It alleges that a main reason for our economic problems is that government is too large, too inefficient, and—above all—a “burden” to the private sector which, according to this highly erroneous logic, seems to deliver programs and services far more effectively.
- (2) It tries to convince us that Canadians have gotten too fat by telling us that we expect too much in terms of wages, social programs, and so on, and that we cannot afford it anymore.
- (3) It also tells us that all this prevents us from responding to “free markets” and “global competition.”

According to this logic, we are supposed to think that we have no alternative but to institute policies that reduce, often significantly, the role of government and government organizations in the economy, to cut government programs and services, to eliminate public-sector jobs, and to reduce wages of the workers who remain employed. There is a keen desire among those who promote this conventional wisdom most vocally to give the private sector more freedom to do what it wants through initiatives like privatization, deregulation, self-regulation, and labour law reform—all which, not so coincidentally, seem to benefit them directly.

What typically gets lost in this mix is any real consideration of what works best for Canadian citizens and the communities in which they live. Under the conventional wisdom, far too few seem to be taking the trouble to ask whether privatization and similar schemes really deliver *better* public services. Far too few are asking what can be done to help the workers who are responsible for delivering public service so they can deliver quality public services in the most effective way. Specifically, with regard to prisons, far too few seem to be asking whether it is appropriate at all to suggest that the incarceration of and the administration of punishment should be a money-making enterprise.

As a result of our research and my own investigations of prisons in the United States, there is no doubt in my mind that privatization of prisons is not the answer for Canada. In reality, it would only satisfy a small but vocal minority of large companies. Their overriding interest, despite what they say, is in grabbing profits for themselves no matter how this affects taxpayers, prison inmates, and the rest of us.

Notes

- 1 See Smith 1993 and Keating 1985 for the different points of view. See also Donahue 1988, especially pages 12-13.
- 2 Much of the following summarizes material found in Keating 1985 as well as Lampkin 1991.
- 3 Donahue (1988) says that it might be argued that public centres are more efficient even where private prisons do have lower operating costs because public centres deal with slightly older and potentially more troublesome residents, have higher turnover, and—with less

- control over the flow of juvenile delinquents sent by courts or social agencies—are more plagued by under-capacity and over-capacity.
- 4 Donahue (1988) has estimated that labour accounts for roughly 60 percent of the overall costs of corrections.
 - 5 This section borrows heavily from Smith 1993.
 - 6 This section borrows heavily from Cunniff 1985.

Bibliography

- Cunniff, Mark A. (1985). The Privatization of Corrections. In *Does Crime Pay? An Examination of Prisons for Profit* (American Federation of State, County and Municipal Employees, AFL-CIO).
- Donahue, John D. (1988). Prisons for Profit: Public Justice, Private Interests. Economic Policy Institute.
- Dymmock, Gary (1995). Wackenhut Centre One of 30 Probed by Texas Authorities. *The [Saint John, NB] Evening Times Globe* (September 1).
- Gonzalez, J. (1990a). State Audit Blasts Private Prison Operator. *Houston Chronicle* (May 16).
- (1990b). Two North Texas Prisons Rebuked. *Fort Worth Star-Telegram* (May 16).
- Keating, J. Michael (1985). Thoughts about Prisons for Profit. In *Does Crime Pay? An Examination of Prisons for Profit* (American Federation of State, County and Municipal Employees, AFL-CIO).
- Lampkin, Linda M. (1991). Does Crime Pay? AFSCME Reviews the Record on the Privatization of Prisons. *Journal of Contemporary Criminal Justice* 7, 1 (March): 41-48.
- Monchuk, Judy (1995). Prison Firm's Screening Comes under Fire in NB. *The [Halifax] Chronicle Herald* (September 7).
- Quinn, Christopher, and Mark Vosburgh (1995). Fired Manager Said Screening Was Full of Holes. *Orlando Sentinel* (August 30).
- Reavis, Dick J. (1992). Scarecrow Cops. *Texas Monthly* (May).
- Richardson, Don (1995). If Charges Are True, NB Might Back Out of Deal with US Private Prison Operator. *The [Saint John, NB] Evening Times Globe* (September 1).
- Shelton, D.A. (1996). Private Prison Factories. *Collective Action Notes* (January-March).
- Smith, Phil (1993). Private Prisons: Profits of Crime. *Covert Action Quarterly* (Fall).
- Tolchin, Martin (1985). As Privately Owned Prisons Increase, So Do Their Critics. *New York Times* (February 17).
- Ward, M. (1990). Private Prisons Faulted on Services, Discipline. *Austin American-Statesman* (May 16).