

# Privatising prisons

## The underlying issues

Paul Moyle

*Australia's first private prison, Borallon Correctional Centre in Queensland, is the focus of this examination of the privatisation of prisons showing that even the bean counters may not have got it right*

### How far has the privatisation of prisons developed in Australia?

Eighteenth century English prisons were controlled and run by gaolers as a profitable enterprise.<sup>1</sup> In Australia in 1989 there were no prisoners being held in private correctional centres. In 1990, there were 244 prisoners at Borallon Correctional Centre, Australia's first fully private adult prison this century. Borallon Correctional Centre is located near Ipswich in the south-east of Queensland. The centre is owned and managed by Corrections Corporation of Australia (CCA), a private company incorporated in Queensland in 1989. The ownership of CCA is a joint arrangement by equal shares between Wormald Security (a subsidiary of Racal Chubb Holding Pty Ltd), Corrections Corporation of America, one of the largest operators of private prisons in America, and John Holland Holdings Ltd.

In 1991 four governments announced that they would be building and operating private prisons. The New South Wales Government has given a consortium comprising Wackenhut, ADT, and Thiess Contractors a contract which allows them to design, build and operate a 600 bed prison at Junee. The Northern Territory Government is in the early stages of the tendering process and has advertised for suitably qualified and experienced organisations to design, construct and manage a prison at Alice Springs. The Director of the Australian Institute of Criminology, Professor Chappell, reported to a conference that

If current developments continue in Australia at the same speed they have until now, there is a distinct possibility that this country will have more privately managed correctional facilities than any other nation in the world.<sup>2</sup>

The Queensland Corrective Services Commission (QCSC) has called for 'expressions of interest from companies which wish to be considered as potential tenderers for the contract management of their Remand and Reception Centre at Wacol near Brisbane. The centre due for operation in early 1992, will be a 380 bed facility serving separate remand

and reception functions'.<sup>3</sup> In 1992, there could be as many as 1824 adults in privatised correctional centres throughout Australia and these figures do not take into account other forms of private intervention into citizens lives such as community correction centres, halfway houses and home detention. Tasmania and the ACT have not expressed interest in privatising correctional centres. The Victorian Labor Government is the only government that has a policy that does not include the privatisation of prisons and there are no plans to develop one. South Australia is monitoring the development in other States and could well privatise in the future. The Secretary to the SA Minister for Corrective Services indicated that:

the Minister of Correctional Services has on several occasions publicly stated that significant reductions must be made in the cost of operating the State's correctional services. It would be preferred if such reductions could occur through the identification of more effective and efficient means to utilise the existing correctional system and resources. Some discussions have taken place in order to try and achieve this outcome. . . . The Minister has indicated that he is not prepared to allow intransigence by any vested interest to hinder the Government's aim to operate an efficient correctional system. All parties involved in those negotiations have had this made clear to them.<sup>4</sup>

It is clear that a major transformation of corrections is occurring in Australia. State governments are attempting to redefine their obligations to their citizens, yet there has been little public discussion or research into this process of change. Little is known about the background of Corrections Corporation of America (CCAm) or Wackenhut, major partners in the development of private prisons in Australia. It is difficult to gain access to detailed financial information about CCA's operation at Borallon Correctional Centre. This is because the company successfully claims commercial confidentiality on most of its operations, financial and policy information.

CCAm, the parent company of CCA, has become a major provider of correc-

*Paul Moyle teaches law at James Cook University of North Queensland.*

The author would like to thank Brian Simpson, Mark Findlay and George Zdenkowski for their advice on earlier drafts. This paper arises from postgraduate research at the Institute of Criminology at Sydney University. The author wishes to acknowledge the assistance of James Cook University for providing financial assistance through a merit research grant to conduct field research at Borallon and Lotus Glen Correctional Centres in 1991.

tions in America. In 1991, CCAm had '19 facilities under contract in six US States and one in Australia with a total bed capacity of 6262'.<sup>5</sup> Financial information about CCAm indicates that running private prisons is an extremely profitable business. The same financial information is not readily available in Australia. CCA does not publish financial information about its companies' financial affairs. CCA has systematically avoided revealing information about the profitability of its private corrections operations. The General Manager of Borallon, when asked for specific information about his company's profits, was elusive. 'We managed to come in on budget on the first year and did make a profit. The amount of our profits is a private matter for our company and I wouldn't be prepared to discuss it'.<sup>6</sup> CCAm's first quarter results for 1991 show profitability that would be considered healthy for any company.

For the three months ended 31 March, CCAm's revenues increased 40.9% to \$16.5 million from \$11.7 million in the first quarter of 1990. The company's operating profit rose 24.4% to \$2.4 million in 1991 from \$1.9 million in the comparable 1990 quarter... For the period ended March 1991, CCAm's current assets were \$20 364 936 with its total assets being \$96 900 533. Current liabilities were \$11 900 219. Dr Grants, President of CEO, expects continual improvements of earnings over 1991. The income tax paid on these earnings was \$3000 and the income tax paid to the three months ended March 1991 was \$0.00.<sup>7</sup>

Similarly, Wackenhut Corrections Corporation has a profitable corrections division which started operations in 1989. This division contributed approximately \$17 million to the increase in revenues from 1988-1989.<sup>8</sup>

These are high profits for the companies, but are there any costs or savings to the state? Advocates of privatisation argue that companies that privatise prisons do so at a reduced cost to government. This reduction, according to the advocates of privatisation occurs through internal and external efficiencies.

### A popular justification?

A popular justification for the privatisation of prisons in Queensland has been the perception that private companies manage organisations more efficiently and effectively. Underlying the push for privatisation is the expectation that savings will accrue to governments that privatise while, at the same time, the pub-

lic can be made to feel secure that law and order is still prioritised. This is achieved by maintaining high expenditure on prisons through the involvement of private companies in a prison building and operating scheme. Law and order policy is not limited to the Liberal government. The QCSC and Mr Milliner, Minister for Justice and Corrective Services, have deliberately adopted strategies of increasing the severity of punishment, criminalising more spheres of activity and expanding private influence in penology as appropriate directions for corrective services in the 1990s.

If we accept this popular justification for privatising prisons, several questions are relevant. Is private enterprise more efficient than public enterprise in managing corrections and will private enterprise lead to a reduction in government built and operated prisons? Will private enterprise provide a yardstick for quality with which to compare public sector performance? Will the private sector be more accountable to government than the public sector? The simplest way to get preliminary answers to these questions is to examine Borallon in detail.

It is crucial that this popular economic justification be critically evaluated in terms of actual practices in penal policy within Queensland. One must be cognisant of this popular justification as a form of political strategy satisfying government desire to create an impression of fiscal responsibility in harsh economic times. Although the connection between privatisation and efficiency is stressed in debates about justifications for privatising penology, other more significant factors seem to be at work.

Since early 1988 when the Queensland Government established the Commission of Review into Corrective Services and subsequent the QCSC, considerable pressure to change has been brought to bear on the corrections system. Privatising prisons and community corrections can be seen as one element in this process. The fundamental question is, what does the Government hope to achieve by privatising penology? It is clear that it is using privatisation as a strategy of power to negotiate with industrial unions. Privatisation is being used as a bargaining chip and the industrial unions are being told that 'you either comply with our agenda, or we will privatise'. The Remand and Reception Centre at Wacol is a good example of this. Because of a failure by the QCSC

and the Queensland State Service Union to agree on staffing and operational matters, the Minister stepped in and announced a privatisation initiative.<sup>9</sup>

Lotus Glen Correctional Centre has been threatened with privatisation on several occasions when it failed to agree with budgetary and staffing requirements set by the QCSC. It was reported that senior management at Lotus Glen were so tired of the threat by QCSC to privatise the correctional centre, that they put a privatisation package together and submitted it to the QCSC. One senior manager at the facility said:

We were so sick of being threatened with privatisation that we put a package together asking for tenders to be called for private parties interested in managing Lotus Glen. The management team here would have submitted a tender. If the standard of service of Borallon is anything to go by, we believe we could run a correctional centre much more efficiently and provide better programs than CCA. The QCSC can't be too serious about it though because we haven't heard anything about our proposal in the six months since we submitted it.<sup>10</sup>

Another cause for privatisation may be the desire of the QCSC to change existing work practices within the state sector. Undoubtedly, the 'quasi-militaristic' attitude of some of the old guard prison officers is an impediment to the reform process. It is questionable whether privatisation will achieve this as these individuals are unlikely to work in the private system. It also does not necessarily follow that a private prison will not develop some of the unfavourable characteristics of some of the older and more notorious prisons. A final reason for privatisation may be the need to finance an expansion of prison building in a period when capital and infrastructure are increasingly costly in relation to shrinking state budgets. Economic recession has caused a shortage of money for prisons because of a demand for increasing welfare and social assistance. Privatisation of prisons has the added ideological advantage of the right-wing agenda to increase social control, yet simultaneously reduce government expenditure.<sup>11</sup>

### Cost, efficiency and accountability

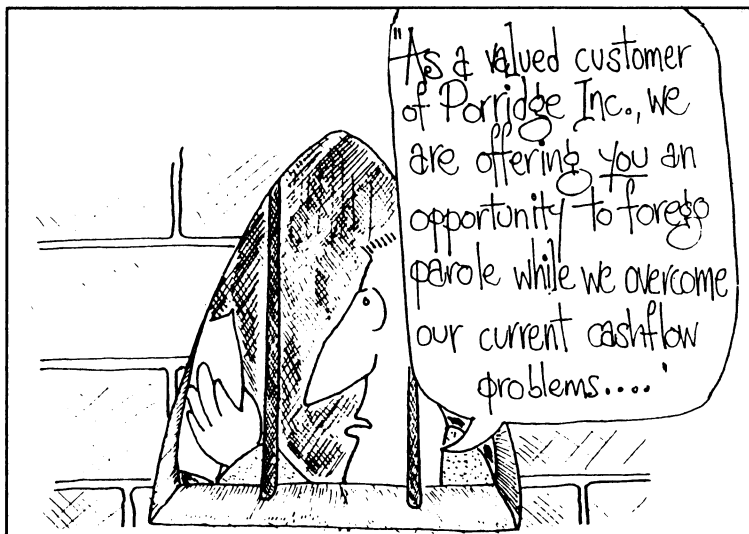
Adequate research by governments into the legal and policy issues associated with privatisation has not been undertaken in Australia. Both the

Kleinwort Benson Report of NSW and the Commission of Review into Corrective Services in Queensland are superficial in their analysis of the justification for privatising corrections, and once it is privatised, the economic benefits of this move.<sup>12</sup> The superficiality of these reports is even more inexcusable when it is considered that they were used to justify the privatisation of penology in their respective States. The following are only some difficulties with privatising prisons that should have been examined in these reports and it by no means is an attempt to list all the philosophical, legal, social and political issues associated with privatisation of penology:

- Is it philosophically justifiable to allow private enterprise to profit from punishment? What are the effects of allowing profit from punishment? How will people react to being the subject of profit? Will people become just another commodity to be traded in the market place? Is it appropriate that imprisonment which involves suffering be transformed into a commercial innovation? Should imprisonment be treated differently from profiting from illness, e.g. private health service?
- Will the privatisation of prisons in Australia lead to a two-tiered system in which the better behaved prisoners will be sent to the private sector, leaving the so-called intractables to the public sector? This is already evident at Borallon which takes a select prison population who are not protection prisoners.
- How will the involvement of multinational corporations affect the emerging right wing ideology that stresses law and order? Will the investment of private capital in penology stimulate a massive prison building expansion beyond what would be possible if the public sector were financing construction and management of prisons?
- How will maximising profits, a genuine concern of private companies, affect the type and operation of prisons? Will the objective of lowering expenditure in order to maximise profits, lead to a reduction in programs for inmates, maximum elec-

tronic surveillance, minimum staff, minimum programs, minimum contact between prisoners and prison staff, liquid diet, few family visits and less recreational time?

To what extent is privatisation of prisons seen as a means of funding programs that government can no longer adequately fund?



- Will the problems causing overcrowding in existing prisons be ignored? Will issues such as definitions of crime and criminal activity, levels of incarceration, and whether prison is an appropriate way to deal with many types of maladaptive behaviour, be ignored? Will discussion be diverted away from the cause of overcrowding to an obsession with solutions which stress technical efficiency in building prisons?

When examining privatisation of prisons, it is crucial for a proper analysis to have access to information from government so that the public can participate in the decision-making process. In this sense, access to information about issues of cost, efficiency and accountability of private and public sector prisons is essential for the democratic process. The available statistical information from departmental sources indicates that Borallon costs more for custodial corrections from the period ending 31 May 1991 for the State, than a comparable prison such as Lotus Glen.<sup>13</sup>

Examining the Expenditure Statement from 1 July 1990 to 31 May 1991, we can see that Borallon had an estimated budget of \$8.149m with an actual budget of \$8.155m. The estimated budget is a determined budget for a given centre. Therefore Borallon was over budget for this period. For the same period Lotus Glen had an estimated

budget of \$7.305m and an actual budget of \$7.028m. This means that the actual budget was less than the estimated budget. This indicates that Lotus Glen was able to operate efficiently within its budget whereas Borallon exceeded its budget. The same trend exists in relation to the anticipated forecast to 30 June 1991. Borallon's anticipated annual budget was \$8.900m and its forecast was \$8.909m. Therefore the forecast exceeded the annual budget. On the other hand, Lotus Glen did not exceed its forecasted budget. It was able to work within the financial perimeters of the Department so as to have nil variance.

Analysis of the unit costs from the QCSC indicate that Borallon had a net expenditure of \$1.519m whereas Lotus Glen had a net expenditure of \$1.328m. Crucially, the net daily unit cost per offender was \$104.69 for Borallon and \$101.54 for Lotus Glen. The Department changes this figure by adding the cost of overheads to Lotus Glen, yet not adding a proportion of the overheads to Borallon. This artificially increases the unit cost per offender for Lotus Glen to a figure higher than the net daily unit cost at Borallon. Borallon uses the services of Head Office of the QCSC and other administrative support just as other public sector prisons do. Therefore it is unrealistic to expect the public sector to have this cost added on to their overheads while at the same time excluding Borallon.<sup>14</sup>

These official figures are even less flattering to Borallon when it is considered that Lotus Glen has significant disadvantages in its operation that would make it more expensive to run than Borallon. Lotus Glen is isolated as it is located at Chewko in Far North Queensland. Lotus Glen performs all security classifications including a remand and reception function. Borallon does not take all security classifications; its inmates are a narrow group of well-adjusted medium security inmates who have no special behavioural or management needs. Borallon's management actively rejects any protection inmates to avoid the additional costs associated with this group. Professor Byrne, after a review of prisoner education in Queensland, concluded:

It is easy to handle larger numbers with fewer staff if they are less difficult, less violent and more motivated and have free movement. For entry to Borallon is mainly on demand from prisoners, and to the extent that the prisoners have moved to Borallon towards the latter end of their sentences, they will also be the easier to handle.<sup>15</sup>

International evidence comparing private and public sector prison performance is limited. A report reviewing state agencies and programs commissioned by the Texas Legislature concluded after comparing a state and private correctional facility, that 'no direct comparison could be drawn between the private pre-release facilities and an equivalent state facility because no state-run equivalent exists'.<sup>16</sup> Another US report concludes that the prison operated at Hamilton County 'by contracting for its prison management . . . has apparently received more and better prison services for less money'.<sup>17</sup> The overseas comparisons are equivocal as to whether the private sector is more efficient, effective and accountable than public sector prisons. There have been reports that CCAM has been grossly inefficient and dishonest in its dealings with government agencies by deliberately overcharging for services.

The US State which has experienced the greatest problem with the Corrections Corporation of America's operation of private prisons is Texas, where members of the State Board of Criminal Justice have claimed the company had 'failed miserably' in providing job training, education programs and medical services to inmates, as required in contracts with the state. Of even more concern to taxpayers, the Board claimed the company had not filled staff positions but had still accepted payment allocated for these positions from the state. This robbing of the state coffers amounted to \$155 000 in just nine months . . . Ben Gallant said an internal audit of facilities operated by the Corrections Corporation of America suggested the company was leaving some prison staff positions vacant thereby pocketing the money appropriated for salaries.<sup>18</sup>

These issues raise serious doubts about the efficiency of CCAM, a private sector participant in prison management. Should these doubts be extended to CCA given that a major partner in CCA is CCAM? There has to date been no evidence of similar occurrences at Borallon. But even if there were, it is not likely that these sorts of problems would be detected in the present Australian system. The difficulty is that Borallon is not subject to external

review by independent research. The only review undertaken of Borallon is by the QCSC contract monitor who is arguably ineffective. The QCSC is not providing a comprehensive audit of Borallon. Ultimately, efficiency cannot be separated from the system. Several questions need to be answered. Does Borallon, which was built as a total institution for all classifications of inmates, operate efficiently when it is used for a limited range of inmates? Is a burden placed on state prisons because of the special treatment given to Borallon? Will the increasing use of privatisation mean further preferential specialisation to the private sector, thus producing inflexibility and overall higher costs to the state system?

A fundamental question with privatising prisons is accountability. The idea of accountability needs to be carefully defined and evaluated against the actual practices at Borallon. Accountability can be expressed in four ways. First there is *political accountability* through political notions such as social contract. Second there is *organisational accountability*, that is, the QCSC should be evaluating and monitoring the performance of private prisons in a regular and meaningful way. Third is *legal accountability*, which involves decisions being made by disciplinary tribunals that are constituted by unbiased and impartial individuals. The impartiality referred to is financial. The employees of CCA are currently breaching inmates and determining appeals against breaches<sup>19</sup> while, arguably, the company gains financial reward from the outcomes of these tribunals. The financial reward is ensuring contract renewal by transferring out inmates who are perceived as troublemakers. A typical review of a major breach<sup>20</sup> of the prison offences section of the *Corrective Services Act* at Borallon illustrates this point.

MO: You're Ben Smith are you?

BS: Yes.<sup>21</sup>

MO: Ben, you were breached under regulation 29(6) of the Corrective Services Regulations for using a drug or medication without permission. That drug is THC. You were subject to a urine analysis on the sixth of May. The reading is a four star reading which indicates a recent intake of marijuana.

BS: That's not true. I haven't had any marijuana since I've been here. I have been a chronic smoker for fifteen years. The THC content in my body fat should be absolutely saturated. I've been in prison four weeks now. I had my urine tested after three weeks. It's got to come

back positive. I'll back it up with medical proof.

MO: Have you got any medical evidence?

BS: I've got to get medical evidence. I have to wait for journals, but it's written in a lot of journals that it takes up to six weeks at least before THC starts to break down. Since I've been here I have had four strip searches. For visits my visitors have been harassed. I have had three cell searches — two illegal.

MO: We are dealing with this matter here right now.

BS: I realise that but this is all part of it. I have been picked out for some reason, numbered for some reason, and this is the only way they can get me.

MO: Well, the advice we have had from the Queensland Medical Laboratories is to the contrary and that is, four stars would indicate a recent marijuana intake. If you hadn't smoked marijuana for some time then your screening would not be so high.

BS: Did they take into account my heavy prior usage?

MO: Not according to the QCSC doctor.

BS: Well, then, I would like to take it to an outside court.

MO: Well, you can't, because it will be dealt with here and now. It's a breach under the Corrective Service Act.

BS: I've got the right to take this to an outside court . . .

MO: No, you have not got the right to do that at all. It's a breach under the Corrective Services Act section 101 and we are dealing with it under s.102 today.

BS: It's not fair. I haven't had any marijuana since I've been here.

MO: Your urine has come back. I've got documentary evidence to the fact and the determination of the breaching officer will stand.

BS: So I don't get an opportunity to get any documentary proof to say any different. That's not really fair is it?

MO: It is fair. Away you go. Seven days stands. That's it.

BS: Unbelievable.

MO: There is no good getting into an argument or you'll go on. It's like a magistrate's court — you pass sentence and that's it. Take the prisoner to the bay.

Security Correctional Officer (CCA): He is taking it to an outside court.

(Laughter by MO and Security Correctional Officer)

The question arises, is it acceptable that employees of private companies make these decisions without the state reviewing the basis for these decisions? CCA within Borallon makes determinations on a daily basis which affect the rights of prison inmates without review by the state. Have the ramifications for

allowing individuals who work for a private company to make disciplinary decisions, which is in essence a state responsibility, been properly explored?

The fourth way of expressing accountability is *information accountability*. Private prisons, and public ones for that matter too, should make available contractual, financial and policy information as a part of the public record. Currently in Queensland, all four types of accountability are being breached.

In relation to political accountability, the Queensland Labor Government had given an undertaking that it would not privatise correctional services.<sup>22</sup> Yet it has clearly gone ahead with this process. The assumption is that private prisons will save money for the public sector. The question needs to be asked, does social responsibility involve engaging in a private prisons program when it may be more costly? Is it fiscally more responsible to decrease government expenditure on education, health services, welfare services, law and order and public safety yet privatise prisons given that the available information on the cost of privatising prisons is at least equivocal?

Borallon has been secretive about its financial and policy operations.

In terms of legal accountability, who is responsible if an inmate is seriously injured by the negligence of CCA? Is CCA liable for its negligence like any other business? Is it proper that CCA should indemnify the government agency and elected officials with which it contracts against liability and therefore *de facto* assume responsibility for corrective services? These are crucial questions that neither the QCSC nor the General Manager of Borallon (in an interview on 16 July 1991) could answer. The General Manager's answer to a question about liability for injury to inmates was informative:

I am not sure; you would have to ask the Commission that. I don't know if it would apply. The contract is a matter between CCA and the Commission and we would not be prepared to release it. There is an agreement between the QCSC and CCA that no copies of the contract are to be released without the consent of both parties. I wouldn't let you have a copy of the contract. That could be detrimental to the company. I am not prepared to discuss the contract any further.

Organisational accountability is probably the most pressing difficulty in Queensland. As the General Manager of

Borallon said, 'It's in the contract between the QCSC and our company that there will be a contract monitor on site and they will have to audit us thoroughly'. The QCSC seems satisfied with current contract auditing of Borallon. In the 1991 Annual Report it states 'Overall the contract auditing function of the Commission provides an ongoing assurance to both contractual parties that conditions and requirements are met' (p.24). Likewise the General Manager of Borallon is satisfied with the contract monitor's role. In answer to this question, the General Manager replied

I had some concerns about the contract monitor's role when I first started here. Big Brother watching over us and interfering and being a *de facto* manager. We have had two contract monitors since we started and we have had an excellent relationship with both of them. They haven't been intrusive at all. I look upon it now as having a non-paid inspector of the establishment. It's nice to get that service you don't have to pay for.

The evidence from the first 20 months of the operation of Borallon indicates that the contract monitor is given too many centres to realistically monitor the performance of Borallon. The monitor was interviewed on 16 July 1991 and said:

I'm responsible for five centres for audit purposes. The audit document stipulates the standards I am to monitor. There are two areas of audit — operational performance and conditions of contract which are monitored once a year . . . A lot of my work here is documentation, signing every movement in and out of the prison. Originally we were supposed to have an on site monitor five days per week, but that isn't how it has worked out . . . There have been very few incidents of significance that have occurred here [Borallon].

The contract monitor assigned to Borallon attends the facility one day per week with most of his time being taken up by administrative responsibilities not related to the auditing function of CCA's performance. When these factors are taken into account, the current time spent monitoring may be as little as one hour per week.

It is also difficult to know what is being monitored. The type of monitoring being done is superficial and focuses on quantitative rather than qualitative aspects of Borallon's operations. For example, no evaluation of the quality of programs which includes industrial and trade training has been undertaken at Borallon by the monitor despite its 20 months of operation:

We are now looking at qualitative aspects. We haven't looked at this in the past . . . [In response to a question about the industrial and trade training available at the centre, the monitor said] . . . I have no audit experience in various areas of operation. I should get specialists in to check them. I haven't got anyone in to look at the industrial trade training yet. To do this job properly, you would have to have a number of different auditors to look at specific areas, and we just don't have this. We have an audit division in the city with just three staff. We are responsible for all the correction centres and all the community correction centres in the state.

A significant question arises. How can claims be made about the superior efficiency of Borallon when a qualitative evaluation of the facility's programs has not been undertaken? Of more concern in the short term is that it appears that the QCSC has normalised Borallon in that it considers that no special monitoring is required for a private company which operates a correctional facility. In response to the question whether once a week is adequate to monitor Borallon, the contract monitor replied:

Yes, I think so. I would like to come in once a month. I don't think we need an on site monitor. We should just do random spot checks. They would be more effective than for someone to be here on a regular basis. I don't think a breach could occur here. I think it would be most extraordinary that a breach could occur here.

## Conclusion

The rapid privatisation of prisons in Australia is a deliberate policy choice. It is unsatisfactory that privatisation should proceed without adequate preliminary research being done by governments which choose to follow this course. Privatising prisons is a fundamental change in penal practices in Australia. It raises fundamental issues about the proper role of government and an individual's rights within society. Many issues need to be explicitly evaluated within the privatisation context — accountability, democracy, the identification of people as a source of profit, delegation of the power to punish, natural justice and monitoring — are just some essential themes which need to be explored.

The issue of greater openness and accountability, so much the part of the ideological baggage of privatisation, needs to be tested against the actual experiences within institutions which are privatised. There is also the issue of

a trust relationship between the citizen and the state. If an inmate is assaulted or injured in a private correction facility, has the state failed to uphold its responsibility? Ultimately the state cannot abrogate its obligation to provide a safe, accountable and efficient correctional service which encourages meaningful skill acquisition and socialisation to inmates imprisoned by the authority of the state.

## References

- Morrissey, S., 'Private Prisons were a Private Hell' (1989) 12(3) *The Bridge*.
- Chappell, D., *Sentencing of Offenders: A Consideration of the Issues of Severity, Consistency and Cost*, Paper presented to 27th Australian Legal Convention, Adelaide; see also Solomon, D., 'Privatising prisons tipped to multiply', *Australian*, 11.9.91, p.63. *Weekend Australian*, 19-20.10.91, p.42.
- Letter from Secretary to the Minister of Corrective Services, South Australia, 18 February 1991.
- Richard de la Houssaye, Director, Business Development, CCAm, letter, 30 October 1991.
- General Manager, Borallon CCA, interview 16 July 1991.
- CCAm News Release, 30 April 1991, p.1. If you subtract the total liabilities of the company from its total assets, the remaining surplus is \$24 951 154.
- Wackenhut Corrections Corporation, Annual Report, 1990, p.33.
- General Secretary, Queensland State Service Union, Interview, 11 October 1991.
- Manager of Programs, Lotus Glen, Interview, 11 October 1991.
- Brown, D., 'Putting the Value Back in Punishment' (1990) 15(6) *Legal Service Bulletin*, pp. 239-47 for a brief discussion of population and cost explosions in NSW prisons. For a fuller account of national and international increases in the rate of imprisonment see Chappell, D. above, pp. 2-5.
- Kleinwort Benson Australia Ltd, Investigation into Private Sector Involvement in the New South Wales Corrective Services System, Stage 1 Report, Australia, 1989; Kennedy, J.J., Commission of Review into Corrective Services in Queensland, Final Report, Australia, 1988.
- Part of the present research involved an extensive comparison of Borallon with Lotus Glen Correctional Centre. They were built at similar times (1989) and are almost identical buildings. Both run on a case management system. Borallon has a prison capacity of 244, Lotus Glen of 224. The QCSC does not as a matter of accounting practice include Borallon in its daily unit costs per prisoner by institution. The Commission also excludes the detailed industry performance analysis.
- It is puzzling also that Borallon does not have its actual number of staff ratio for offenders/staff revenue and overheads listed in the 1990-1991 unit costs tables. To provide a comprehensive comparison between Borallon and other comparable public sector prisons, this information is important.
- Byrne, E.M., *Unlocking Minds: From Retribution to Rehabilitation. A Review of Prisoner Education in Queensland*, p.33, unpublished, 1990.
- The Sunset Advisory Commission, Final Report, Texas, p.16.
- Logan, C.H. and McGriff, B.W., 'Comparing Costs of Public and Private Prisons: A Case Study' in US National Institute of Justice, *Research in Action*, No. 216, p.7.
- 'CCA's performance angers authorities', (1991) 87(5) *Queensland State Services Journal*, p.1.
- See ss.97-103 *Corrective Services Act 1988* (Qld).
- See s.102 *Corrective Services Act 1988* Qld. It is interesting to note that pursuant to s.101(5) the prison shall not be permitted any legal or other representation at the hearing of a complaint. See also Part IV, Breaches of Discipline, ss.29-33 *Corrective Services Regulations Qld 1989*.
- A pseudonym has been given for the inmate. Dates have been altered. MO = Manager, Operations, CCA Borallon. S.29 reads 'without the permission of a correctional officer or a medical officer, ingests, uses or gives or administers to another prisoner by any means whatsoever, any drug or medication'.
- See Goss, p.11 and also the Parliamentary Labor Party's declaration to the General Secretary of the Queensland State Services Union that the 'Goss Government will move to end the privatisation of Borallon'. 'In Defence of Queensland', (1990) 86(7) *Queensland State Services Journal*, p.3.

## LEGAL STUDIES

**Article 1:** 'Privatising punishment for profit' by Kath McCarthy (see p.111).

**Article 2:** 'Privatising prisons: the underlying issues' by Paul Moyle (see p.114).

### Questions: Article 1:

- In your own words, explain the trend referred to by McCarthy, of which privatising prisons is an element.
- Why does the author suggest there is some anguish for people 'on the left' towards confronting the issue of privatising prisons?
- What does the author mean by 'right wing ideology' and how does she see its objectives in relation to the prison system?
- How does McCarthy see the place of social welfare policies connecting to the possibility of crime prevention?
- What concerns are expressed by the author in regard to employees within privatised prisons?
- What is the main ideological argument put forward by those who oppose privatisation of the prison system?
- Identify the author's concerns about possible future trends under a privatised penal system. Can you think of others?

### Questions: Article 2:

- What is the popular justification for the privatisation of correction services in Queensland?
- What reasons does the author cite for the Queensland Corrective Services Commission seeking to privatise?
- Comment on the statistical evidence the writer puts forward in comparing and contrasting Borallon with state run prisons.
- Explain the monitoring system at Borallon as a mechanism of accountability.

### Activities/discussion

- Debate the topic:** 'that the privatisation of the prison system is a regressive trend in regard to the relationship between citizen and state'.
- Essay topic:** 'In a country which began forming its sense of national identity as an outpost of an overburdened British penal system, it might be argued that the privatisation of that particular state function is the mark of true national maturity'. Discuss.
- Research:** Privatisation is an element of a social, political and economic philosophy that dominates the policy-making of several Western nations. It is a plank within what is often referred to as economic rationalism. Find out as much as you can about this phi-

losophy and present an account of how it might further put at risk the operation of the criminal justice system.

### Glossary:

**Hegemony:** the feature of a dominating power, as in one nation dominating another; or a ruling class dominating less powerful classes. It involves the notion that power is not merely the consequence of the immediate threat of force but also relates to the idea that the *hegemonic* power represents the natural order.

**Ideology:** refers to a system of beliefs or values. It is often thought that to be *ideological* is bad, and therefore to be avoided; whereas the idea that knowledge or a position could be value-free, is itself an ideological position.

**Recidivism:** repeating criminal offences.

**Further references:** see the *Legal Issues Resource Kit: Prisons*, Legal Service Bulletin Co-operative 1992. The kit is a compilation of articles from back issues of the *Legal Service Bulletin/Alternative Law Journal*. It is available from the LSB Co-operative, Law Faculty, Monash University, Clayton, 3168, Victoria, and costs \$7. Kits are also available on 16 other topics.

Linda Daley

Linda Daley is a Melbourne teacher.