

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

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.