

PRISON PRIVATISATION: THE (IR)RELEVANCE OF ACCOUNTING

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ABSTRACT

In 2008, the NSW Government announced its intention to privatise two of the State's prisons. This was a significant change in policy, a move that was justified publicly on the grounds that it would produce significant cost savings. This paper explores the way costs have been referenced within the public discussion on prison privatisation in NSW to provide a basis for the decision. Little externally verifiable evidence could be found to support the government's claim that the proposed privatisation would save tax-payer funds; instead, this work shows how justifications based on costs became self referential, taking on a life of their own. Given that there is little 'real' evidence to argue the government's policy was rational on cost grounds, this paper shows how costs are critical to the legitimation of neoliberalism and argues that they help mystify the state's relationship with capital.

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Social democracy's continuing philosophical claim to political legitimacy is its capacity to balance the private and the public, profit and wages, the market and the state (Prime Minister Kevin Rudd, February 2009, <http://www.themonthly.com.au/node/1421>).

Policies informed by some variation of neoliberalism have defined the public sector for the last thirty years. During this period privatisations, new styles of public management and the reconfiguration of the state, capital and the community have been publicly articulated as universally beneficial. However, there is mounting disquiet and concern about the actual benefits that have emerged from this form of capitalism (Andrew, 2007; Heron, 2008; Jupe 2009). Neoliberal policies have defined much of our expectations and experiences of public life over the last thirty years and as a community we have become less sure of the legitimate roles of government, corporations and the community (Funnell et al, 2009). Our everyday activities are affected by public policies that have transformed the transport we catch, the mail we receive, the schools we attend and the hospitals we experience. The list is almost endless. Government functions that were once the exclusive territory of the state have also been subject to neoliberal policies that have seen them outsourced and privatised (Andrew, 2007; Funnell et al, 2009).

Much has been written about the newly configured public sector and its management and there is a significant body of literature that engages with the many and various forms of privatisation that have occurred within the public sector over the last thirty years (Lawrence, 1999; Ursell, 2000; Crompton and Jupe, 2003; Andrew, 2007). The

public sector has undoubtedly been transformed, but there is still considerable debate about the benefits of such transformation and the role that accounting has played in the constitution of the terrain that has enabled these processes (Carnegie and West, 2005; Watkins and Arrington, 2007; Benito, et al 2008; Jupe, 2009). This paper is positioned within this broader literature, but the processes described are understood within the context of neoliberalism (Campbell and Pedersen, 2001; Harvey, 2005). Navigating what constitutes the private and the public; the relationship between profit and sufficient wages; and the appropriate roles of the state and the market as described by the Prime Minister of Australia, Kevin Rudd in the opening quote requires considerable justification. Accounting plays a significant strategic role in this navigation. In this context, accounting helps orient thinking towards the language of the market and sensitises the community to its significance in policy decisions.

The paper also deals directly with the role of accounting information in the justification of prison privatisation and the transformation of our collective expectations of the role of the state and the corporation. The technical accuracy of the accounting data used to support policy shifts is questioned, and is shown to provide little rational foundation for the policy. Instead, the policy shift needs to be understood as part of a process of managing capitalism to ensure capitalism's ongoing viability, whilst reconfiguring the role of the state as an organiser, co-ordinator and legitimiser (Sikka, 2001, 207). It is important the process of public sector reform is explored within different and specific contexts because, as Clark (2002, 772) says there is no single model of public service reform associated with neoliberal ideological realignment .

ACCOUNTING, NEOLIBERALISM AND MANAGED CAPITALISM

Neoliberalism is in the first instance a theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets, and free trade (Harvey, 2005, 2).

Neoliberal theory frames political intervention in the economy and markets as inherently negative. The theory proposes that markets will always be sub-optimal if they are influenced by politics and government. Where freedom is impaired by any form of regulatory interference, the theory argues that socio-economic optimisation becomes impossible. In practice, neoliberalism relies heavily on an institutional commitment to free markets and trade. This is a commitment that requires the active intervention of the state (Harvey, 2005). On one hand we are to believe that big governments are interventionist and therefore the antithesis of freedom, yet, on the other, governments are instrumental in maintaining and policing the kind of free markets that neoliberals believe to be optimal. The paradox is notable and many political economists who engage in critique of the process of neoliberalisation have come to describe neoliberalism as a form of managed capitalism (Cahill, 2009) quite different to the Keynesian model that has gone before it. In fact, contrary to neoliberal theory, neoliberal practices have led to a redefined state, not the destruction of it (Harvey, 2005).

According to Harvey (2005), in order to advance the neoliberal project the processes of neoliberalisation needed to be associated with a conceptual apparatus becoming so embedded in common sense as to be taken for granted and not open to question. Accordingly, the Washington Consensus associated individual freedom and human

dignity with expanding free markets and regulatory minimisation. Heron (2008, 85) has argued that the process inflates the social significance of the market and mystifies human relations . Even so, proponents of neoliberalism argue that

(t)he social good will be maximized by maximizing the reach and frequency of market transactions, and it seeks to bring all human action into the domain of the market (Harvey, 2005, 3).

According to Cahill (2009) and Harvey (2005), the free market is more aptly described as a managed market, wherein the government institutionalises certain rights that support and enable the market. From this perspective, the state institutionalises the critical legal and regulatory architecture that enables further neoliberalisation. In fact, the state is central to the neoliberal project creating a significant disparity between neoliberal theory and practice. Cahill (2009) has argued that the state has played an active, indeed activist, role in the introduction, implementation and reproduction of neoliberalism (Cahill, 2009, <http://www.zmag.org/zmag/viewArticle/20109>). For example:

The engagement of private sector agents to deliver social services, for example, has often entailed the socialization of risk – whereby the state underwrites the profitability of firms either through some form of subsidy or by accepting liability for corporate failure or loss of revenue. Extra cost responsibilities for the state also arise due to new layers of bureaucracy created to facilitate deregulated markets (Cahill, 2009, <http://www.zmag.org/zmag/viewArticle/20109>).

In support of this Palma (2009, 829) has argued that a key component in the effectiveness of neoliberalism as a technology of power has been its ability to transform the state into a major facilitator of the ever-increasing rent-seeking practices of oligopolistic power.

This has also been noted within the accounting literature as Catchpowle (et al, 2004, 1050) argued:

Contrary to the myths of laissez faire, capitalism is a society that requires not less but a great deal more state interference and action towards society and its reproduction. The market needs a political, legal and social infrastructure much more complicated and extensive and intrusive than any pre-modern economy (as Polanyi, 1968, saw).

Accounting information is critical to the production and institutionalisation of neoliberalism. According to Sikka (2001, 207) the language of accounting has enabled core elements of the state to be appropriated by private organisations predominantly concerned with the welfare of capital whilst the state's participation in many social arenas is reduced to that of an organiser, co-ordinator and a legitimiser. As we know, accounting information can imbue any decision with a legitimacy that is reinforced by the perception that it is a neutral technology (Morgan, 1988; Dillard, 1991; Carnegie and West, 2005). Even though much of the critical accounting project has debunked this myth, it has remained hard to popularise this perspective (Sikka, 1997; 2001). As a result, references to cost data as the driver for policy decisions has continued to be popular and, in political terms, it is still relatively successful. According to Catchpowle (et al, 2004, 1051) it is an agent of the deepening of commodification and the shift to the rule of money providing new means of ensuring the control and commodification of labour; the facilitation of wealth transfers from the state to capital and the mystification of these.

Understanding accounting as part of the institutions of managed capitalism allows an understanding of a policy process as one that may not be technically rational or justifiable, but it is rational as part of a broader understanding of neoliberalism in

practice (Harvey, 2005; Cahill, 2009). Even though we may argue about what the market 'is', from a neoliberal perspective it is essential that it is treated as 'natural' rather than a construct and accounting plays a vital role in this representation (Harvey, 2005). It is important that we continue to explore how accounting information is being used to position policy in public discussions. Like all things, this is dynamic and changes over time and context, but adopting a theoretical lens that sees the role of accounting as constitutive rather than reflective helps to understand and explore the purpose of public policy more meaningfully.

In light of recent global events, it has been argued that neoliberalism has failed spectacularly. Since the middle of 2008, we have seen significant public funds being directed towards banks, the building and construction sector, and manufacturing. In such a context, it would appear difficult to sustain the view that public services are better run by the private sector when so many are now being propped up by public funds (McMenemy, 2009). However, as Cahill (2009) has argued the core arrangements that have enabled the rise of neoliberal capitalism have not been challenged by the crisis.

The dominant regulatory solution to the current crisis has been the injection of liquidity into financial markets. Bailouts have been preferred to significant restrictions on the freedom gained by financial capital during the neoliberal era (Cahill, 2009, <http://www.zmag.org/zmag/viewArticle/20109>).

In particular, this paper is concerned with the role accounting information has played in the prison privatisation debate in NSW, a debate that has taken place in the context of a global financial crisis and a State fiscal crisis. As the following discussion will show, the presence of accounting information was critical to the positioning of the policy,

but the technical accuracy of the accounting information and public availability of the information that may enable public accountability, was almost entirely absent. Logically, this would suggest that the policy shift has some other purpose. Although this purpose is not likely to have all-encompassing explanation, within the context of neoliberalism it can be understood as part of an active construction of markets; the construction of the conditions for their existence; and the opening up of fields for capital accumulation in areas previously considered off limits (Taylor and Cooper, 2008). Given that this work is largely to do with the use of costings within the public discussion of the privatisation of two NSW prisons, the next section will show how costs have been presented within the broader discussion of the cost of NSW prisons.

PRIVATISATION IS BACK ON THE AGENDA

We simply have to be competitive. The benchmarking process shows that we are way outside of industry standards. The cost per inmate in the State run system is significantly higher than the cost per day of a comparable privately run facility (NSW Department of Corrective Services, 2004, 3)

For a number of years the NSW Department of Corrective Services (DCS) claimed that private prisons were more cost effective than public prisons. The claim has been powerful as it has framed much of the subsequent discussions about prison providers in NSW. The introductory quote by the Commissioner to the NSW Department of Corrective Services was not substantiated within the source document and is demonstrative of a broadly accepted presumption that private prison providers are cheaper to run than those of the public sector. Although the position appears uncontroversial, it is a position that the DCS has yet to support with reference to transparent and externally verifiable evidence (Andrew and Cahill, 2009). The

Commissioner's statement was made prior to the first proper inquiry into the effectiveness and cost of alternative prison models in NSW. The Parliamentary Inquiry into the Value for Money in NSW Correctional Centres was produced in 2005, and was heavily influenced by the framing and assumptions that had gone before it (Andrew and Cahill, 2009). Although it is well documented that the DCS has yet to develop methodologies that enable such cost comparisons to be made in any meaningful sense, the statement has been powerful (NSW Parliamentary Inquiry, 23rd February; 20th March; 27th March; 1st April, 2009; NSW Department of Corrective Service, April, 2008; Watson, 11th November, 2008). It has influenced perceptions within the department, the government and the community more broadly (Gardiner, 27th September, 2007; West, 14th December, 2008).

The 2005 assessment of NSW prisons in terms of value for money significantly influenced the parliament's perception of what constituted an optimal model for the provision of prisons and related services (Andrew and Cahill, 2009). Although the findings of the report were contested (Andrew and Cahill, 2009; the work of Cooper and Taylor, 2005 also contests the costings in Scotland) the report has significantly framed the parliament's understanding of cost and efficiency within the prison sector. The 2005 report appeared to indicate that the NSW government saw the Way Forwardⁱ as the optimal model. It was promoted as a model that incorporated labour reforms within the public sector, but maintained public ownership and management of prisons. This was not to be the case. In August 2008, prison privatisation was back on the agenda with the announcement that prisons at Cessnock and Parklea would be placed under the management of a private contractor. The announcement sparked

considerable public and parliamentary discussion because it seemed inconsistent with the message being sent by the Federal Labour Party about the role of government, markets and communities within the context of a global financial crisisⁱⁱ. Prison privatisation is also notoriously unpopular, with a vast majority of citizens expressing concerns about the morality of such a decision (Public Service Association, 4th February, 2009, http://www.psa.labor.net.au/news/1233699307_6772.html).

This research focuses on the public statements made by the government to convince the community that the direction of their policy was well founded and in their interest. The evidence presented to the NSW Parliamentary Inquiry (2009) into prison privatisations is also a significant source. This was the first public inquiry into prison privatisation in NSW, and as such, it provided significant insight into the arguments for and against the proposal. This reading of the mainstream media discussion and the transcripts of the Parliamentary Inquiry, suggests that the government either had little evidence to substantiate its cost claim or chose not to make this transparent to the public. It also appears that the government has not developed their accounting methodologies to enable rigorous comparisons between providers, making their claims to know that private prisons cheaper appear unfounded. In effect, the technical accuracy of the government's costings does not appear to be of any real concern to those proposing the privatisation. Given that there is a lack of evidence to substantiate the policy choice, the story is positioned within the broader literature on neoliberalism to analyse the government's reasons for promoting and pursuing this unpopular policy. According to Taylor and Cooper (2008, 7)

The state is no mere cipher, no passive captive of corporate interests but rather, as many observe, is the initiator and driver of the wider capitalist project of neoliberalism, deregulation and globalisation. Within the reciprocal undertaking of privatisation, it has its own set of interests.

Within the political-economy of capitalism, accounting has a very specific role, actively constituting social and economic relations in particular and partial ways (Catchpole, et al, 2004). Given that the privatisation of prisons in NSW has been promoted as taxpayer focused (WS FM, 20th March, 2009), and it was publicly justified on the grounds of cost savings, the remainder of this paper explores these claims.

COSTS WITHOUT EVIDENCE

The Government has embarked on these changes to Corrective Service because of a need to make the taxpayer dollar go further in these challenging financial times (John Robertson, Minister for Corrective Services, 25 March, 2009).

To a large extent the debate that has taken place in NSW over the privatisation of Parklea and Cessnock Correctional Centres appears to have begun with the presumption that private prisons are always cheaper (NSW Parliamentary Inquiry, 23rd February, 2009; 20th March, 2009; 27th March, 2009). This is a presumption that has found its way into privatisation discussions more broadly and many researchers have been far from unanimous in their assessment of the costs and benefits of privatisation (Funnell, et al, 2009). Over the last 20 years researchers have argued this point and there has been no definitive study that suggests that prison privatisation is unquestionably cheaper if minimum service standards are to be maintained (Cooper and Taylor, 2005; Funnell et al, 2009; Andrew, 2007). In 1993 the only privately built, owned and operated prison in NSW at Junee began operating and it has been used as a benchmark within the sector since its inception (Public Accounts Committee, 2005).

Even so, Junee has had a number of problems (ABC News, 2nd November, 2006; ABC News, 23rd October, 2008) and fifteen years after it began operating the government does not store any formal data that enables private and public prison costs and efficiencies to be compared (Public Accounts Committee, 2005). In fact, data that would enable basic comparisons within the sector are not collected by the DCS. For example, they do not calculate ratios of officers to inmates based on security classification, so figures are crude aggregates. This is still the case, yet the government consistently maintains that Junee performs well and is always more cost effective than state prisons (Public Accounts Committee, 2005; NSW Parliamentary Inquiry, 23rd February, 2009).

Although the government claimed that privatisation was in the interests of taxpayers, they resisted pressure to provide further details and evidence (NSW Parliamentary Inquiry, 23rd February, 2009). Having stated the cost superiority of the private model over a fifteen year period, the public was well prepared for the assertion and demanded little in terms of evidence (Harding, 1997). For example, the NSW mini-budget of 2008-2009 projected a saving of \$44.2 million over 4 years, but it was unclear from the document how these savings would be made and what proportion could be attributed to the outsourcing of Parklea and Cessnock's prison management. However, the claims remained unchallenged in the media and by the opposition party.

This ambiguity over savings was present at the outset. It was reported that the commissioner of Corrective Services, Ron Woodham, defended the move, saying services would be provided at five locations for what it cost to service three locations

previously with publicly employed prison officers (Tadros, 21st October, 2008, <http://mandurah.yourguide.com.au/news/national/national/general/savings-on-jail-guards-just-a-ploy-union-says/1339788.aspx?storypage=0>). The statement was not only confusing, but completely unsubstantiated. Had the government had verifiable evidence to support such a claim, it is logical to assume they would have referred to it. In December 2008, it was reported that the Government believes privatising the jails will save \$16 million over three years, mainly in reduced overtime costs for prison officers. Last financial year the total overtime budget for the whole prison system was about \$40 million (West, 9th December, 2008, <http://www.smh.com.au/news/national/prison-guards-cut-in-privatisation-purge/2008/12/08/1228584743269.html>).

In an apparent attempt to placate the mounting community pressure, the Minister, Mr Robertson said there would be no job losses and taxpayers would save \$63 million. He also denied there was any privatisation, instead describing it as outsourcing (Strachan, 3rd April, 2009, <http://www.theherald.com.au/news/local/news/general/stop-cell-off-say-cessnock-jail-protesters/1477223.aspx>). Notably, this is \$47 million more than the projected savings featured in NSW's 2008-2009 mini-budget that had been presented previously. The public could be forgiven for being confused on the matter.

Looking at the Detail: Savings without Evidence

The NSW Parliamentary Inquiry into the privatisation of prisons and prison related services conducted in early 2009 provided the perfect forum to investigate the claims

made about the advantages of privatising the management of Cessnock and Parklea. It is apparent from any reading of these transcripts that the government and the department were unable or unwilling to present any detailed evidence of their claims. In his opening statement to the Inquiry, the Commissioner for the NSW DCS stated that he had

(a) responsibility to operate a correctional system in an economical and efficient manner (NSW Parliamentary Inquiry, 23 February, 2009, 2).

And that based on independent advice from the NSW Treasury that he understood

It would be cost effective to contract out the management and operation of Cessnock and Parklea correctional centres (NSW Parliamentary Inquiry, 23 February, 2009, 2).

There are two significant problems with these statements, the first is that the advice from the Treasury was never made publicly available so there is no way to scrutinise the assertion. Perhaps more significantly, the Commissioner's comments focused on cost effectiveness alone, either presuming quality would be comparable or alternatively, that this is a less significant policy parameter. When pushed on his vision for the sector the Commissioner revealed that he believed having private operators lifts the game of the public sector (NSW Parliamentary Inquiry, 23rd February, 2009, 5). This is a claim that has remained unsubstantiated but has been a significant policy driver.

Given that prior research challenges the data used by the government to promote the view that the private prison at Junee is undeniably cheaper to run, it has been argued previously that private prisons may be used to discipline the public sector labour force (Andrew and Cahill, 2009). In fact, the Commissioner said as much when pressed on the potential for industrial action. He stated that he was not concerned because,

although workers at Cessnock and Parklea were not in discussions with the DCS, most of the prisons are starting to talk to us now about these reforms (NSW Parliamentary Inquiry, 23 February, 2009, 6).

During the inquiry, representatives from the DCS were pushed to discuss their cost accounting to some extent, but again the responses were limited and indicated that the DCS was still a long way from producing the kind of accounting information that would facilitate comparisons within the sector. For instance they were asked about the development of activity based costing, to which they replied:

Within a correctional centre there are many different costs and there are different ways for attributing costs...there are many different ways of attributing overheads against the cost-drivers (NSW Parliamentary Inquiry, 23rd February, 2009, 7).

In his attempt to reassure the Parliament that the DCS had developed sophisticated cost accounting methodologies, the DCS did the opposite. They identified the very issues that had been raised previously about cost comparisons within the sector and offered no explanation as to how they had addressed these issues (Andrew and Cahill, 2009). The DCS agreed to provide more information to take the question of cost allocation on notice and later submitted an updated answer, explaining the basic accounting process. Although on face value the methodology sounds well developed and logical, a number of questions remain about the allocation of overheads to prisons and more specifically to the cost of managing different types of prisoners in different types of prisons. For example, Junee was built in the mid 90's, whilst Parklea was originally constructed in the 1800's creating significant cost biases that may have nothing to do with efficiency and everything to do with prison design. When

questioned on the impact of prison design on operational efficiency, Mr Weir, Deputy Director of the South Australian Department of Correctional Services:

(t)he design can have a significant effect on the ongoing costs of operation...yes, there is no doubt the design itself has a significant effect, as does the culture of a prison... (NSW Parliamentary Inquiry, 27th March, 2009, 18).

The additional response to the question about cost was that the

DCS calculates the cost per inmate per day. These costs are firstly calculated for all costs directly attributed to the centre (Direct costs). In addition to this, overhead costs such as the cost of management and administration at the regional and corporate level as well as Health Costs incurred by Justice Health, are allocated to provide a Fully Absorbed cost...The costing methodology has been updated so that costs are attributed within the centre to the appropriate security classification, resulting in different costs per inmate per day for each classification within the one centre. At the same time overhead costs are allocated on the basis of relevant cost drivers rather than a generic set of assumptions (Woodham, 24 March, 2009, 3).

All cost accounting systems are open to interpretation (Doost, 1997; Cooper and Taylor, 2005) and significant management accounting research suggests that the political nature of cost allocations, can take primacy over technical accuracy. However, as accounting is often seen as a benign device these decisions can go largely unnoticed. With regard to activity based costing, an accountant or an administrator still needs to make decisions about what are the most significant cost drivers, but these decisions can also draw into view certain activities whilst obscuring others. Labour is obviously a significant cost driver, but less obvious is the physical design of a prison in the driving of costs and one may take precedence over the other. There are many things outside 'pure efficiency' that may explain the difference, for example the prisons are located in different geographical regions; not all medium security prisoners are the same; not all correctional centres offer the same educational and vocational programs; the staff/prisoner ratio may not be the same; the continuity of care may be

different; the physical design of the centre may facilitate cost advantages; the prisons may run at different levels of capacity.

In fact, Junee has never been full, whereas most state prisons exceed capacity and GEO admits that they charge the government a fixed fee for full occupancy, whether or not they have thisⁱⁱⁱ. When it was proposed that private operators have an incentive to keep prisoners rather than rehabilitate them, GEO stated that this is irrelevant because we are paid for 100 per cent capacity (NSW Parliamentary Inquiry, 20th March, 2009, 10).

Self Referential Costing

These issues are not made visible when presenting these costings, yet the figures are powerful and have heavily influenced the policy debate. In fact, discussions of cost have been largely self-referential, building a sense of reality that has little empirical backing. Cooper and Taylor (2005, 517) refer to this in their work, stating that

To reduce something to allegedly objective information and then treat that information as if it were an adequate description of the phenomenon at hand is to obscure the purpose behind the information.

For example, GEO (the private firm responsible for Junee) used the DCS's costings in their oral testimony to the Inquiry, stating that the figures are an irrefutable statement in the department's submission (NSW Parliamentary Inquiry, 20th March, 2009, 3). This is reiterated in the evidence provided to the NSW Parliamentary Inquiry

by Brendan Lyon, the Executive Director of Infrastructure Partnerships Australia, who had argued private providers could deliver high quality correctional centres. When questioned about the origin of his data he said (t)he figures we have are the ones that have been delivered by the Department of Corrective Services (NSW Parliamentary Inquiry, 27th March, 2009, 79). Although these figures are accepted within the mainstream support for privatisation they are not universally accepted (Andrew and Cahill, 2009), with representatives of the Public Services Association of NSW, stating

We do not accept these figures are accurate as per our submission. We do not believe the 2007/2008 budget or the 2008/2009 budget represent an accurate picture of the cost of running Cessnock (NSW Parliamentary Inquiry, 1st April, 2009, 3).

When the Commissioner was pressed on the amount that they anticipated saving at Parklea and Cessnock the evidence was suppressed by the Committee. We later learnt the Commissioner estimated there would be \$16.1 savings in total over three years^{iv}. At no time was the Commissioner pressured to provide evidence of this estimate, and the Inquiry did not press the issue or ask for more detail in regard to the claim. The cost projections reinforced those that had been made in press releases. Given the Inquiry was an opportunity to substantiate these claims or provide convincing evidence of these projections, it is notable that the Commissioner did no such thing. Instead he chose to repeat and reference the unsubstantiated claims that had been made previously as though this imbued it with legitimacy. Although the argument to privatise these prisons is cost centred, based on the discussions that took place within the inquiry, the evidence required to back such claims was never rigorously pursued. In fact, the interrogation of costs was superficial in every forum.

Cost and Service?

As has been shown, discussions of costs were not subject to much critical appraisal. In addition, only limited connections were made between cost and service. As would be expected the union representatives argued that the proposed cost savings were largely as a result of workforce reductions and casualisation - a position that was not denied by the Commissioner. The union pointed out the approach could not be adopted without incurring other costs, such as a loss of knowledge of the inmate population because of casualisation, reduced access to education and employment training, diminished health care access and so on. In every way, costs should not be decoupled from service.

Representatives from Justice Action, a prisoner advocacy organisation, made this point to the inquiry, stating

(t)o pay an adult institution \$73,000 a year, and for those prisoners to be locked in their cells 18 hours a day, is just bad. We would expect at the very least that the money would be allocated for their correction and they should get some benefit from it (NSW Parliamentary Inquiry, 23rd February, 2009, 44).

Significantly the question of comparative service for comparative cost was barely raised within the inquiry, and when it was, the lack of data was very apparent. For example, the Hon. Roy Smith said:

We do not have a lot of data. Are you aware of any data that compares lock down times of private prisons to government-operated prisons?

To which Mr. Collins of Justice Action responded:

One has to ask why is it not there? (NSW Parliamentary Inquiry, 23rd February 2009, 45).

The apparent lack of data and lack of transparency of the data that relates to cost is an ongoing source of researcher frustration. The commercial-in-confidence legislation in

NSW has protected companies from disclosing significant financial information. In fact GEO (a private prison operator) requested that their written submission to the Inquiry be made confidential. When questioned about this, they eventually replied

(i)n terms of our submission being confidential. We can maybe highlight the one or two paragraphs that are confidential. It really has to do with, as I indicated earlier, possibly more in the financial area than anything else (NSW Parliamentary Inquiry, 20th March, 2009, 22).

It is also apparent that cost minimisation strategies by correctional centres may not be limited to efficiencies and innovations. In the case of prisoners held in Junee, it is possible that challenging prisoners (in terms of behaviour or health) are moved out of the centre to another public prison to be treated, and also to keep costs down. This issue was raised in the NSW Parliamentary Inquiry:

It is very hard for us to understand whether the cost differential, as outlined by the Public Accounts Committee, is actually driven by innovation or whether it is because essentially if the prisoners have a serious health issue they are moved to another facility so they do not appear on within the books of GEO group (NSW Parliamentary Inquiry, 20th March, 2009, 72)

Contributing to the problem of cost comparison, is the fact that the government will always carry significant responsibilities in terms of prisons that incur costs that can't be outsourced. This issue was raised by Ms Sylvia Hale when she stated:

You have the whole costs of the state bureaucracy, as it were, still having to be met by the state...You have employees or government officials within the prison, and you have the state still continuing to meet hospital and psychiatric services. It seems to me that so many other significant costs are still being picked up by the government...(NSW Parliamentary Inquiry, 27th March, 2009, 15).

Although cost savings may provide a substantive public legitimation of privatisations such as this, the apparent lack of evidence draws into question its centrality as a policy driver. There is no substantive evidence to support the claim that prison privatisation would save money. In fact, there is only evidence of a series of assertions that have

taken on a broader discursive function, framing the debate within factual parameters that have little basis in reality. Contextualising this within the processes of neoliberalism would suggest this is not accidental or irrational (Andrew and Cahill, 2009) but represents the governments' active role in neoliberalism as it really exists . As was argued at the beginning of this work, neoliberalism in practice has required the active intervention of the state to create a context in which privatisation of public services appears to be the only rational solution to any apparent inefficiency.

CONCLUSION

Neoliberalism works best when there is formal electoral democracy, but when the population is diverted from the information, access and public forums necessary for meaningful participation in decision making...Therefore it is best to restrict governments to the job of protecting private property and enforcing contracts, and to limit political debate to minor issues (McChesney, 1998, 9).

When the rationale for public policy emphasises the cost benefits to taxpayers, this has the potential to create a passive and compliant public, willing to judge decisions substantially in these terms (McChesney, 1998). Significant research has identified that this is no accident; instead it is a strategic element of the neoliberalisation of our communities (Chomsky, 1998; Harvey, 2005; Cahill, 2009). According to Harvey:

The process of neoliberalization has, however, entailed much 'creative destruction', not only of prior institutional frameworks and powers (even challenging traditional forms of state sovereignty) but also of divisions of labour, social relations, welfare provisions, technological mixes, ways of life and thought, reproductive activities, attachments to the land and habits of the heart (2005, 3).

This is problematic because some decisions are costly, but desirable; or we may believe some activities should only be undertaken by governments to ensure a level of public accountability; or because the role is so significant it should not be open to the

vagaries of the market. Governments have undeniable responsibilities to govern with the inclusion of criteria that extend beyond a policy's cost-effectiveness. However

In so far as neoliberalism values market exchange as 'an ethic in itself, capable of acting as a guide to all human action, and substituting for all previously held ethical beliefs', it emphasizes the significance of contractual relations in the marketplace (Harvey, 2005, 3)

Within this context, it is not surprising that the NSW government tried to orient public attention to the cost benefits of prison privatisation, thus making accounting very relevant. What is of more interest is the way cost information was used to construct the image of a rational decision with little evidence to substantiate the claim, thus making the (in)accuracies of accounting quite irrelevant.

In other words, if cost alone were the justification for policy this presents significant problems but the problems are exacerbated when that cost information is inconclusive, partial or unavailable. If a government says conclusively that a private prison is cheaper to run than a public prison, without substantial evidence then that process needs to be understood within the broader theory and practice of neoliberalism – or, in other words, as part of a system of managed capitalism. It cannot be explained as irrational, it must be understood as strategy.

Although neoliberal theory promotes free markets through large scale deregulation, in practice the process requires the active engagement of the state to create, manage and sustain the conditions that allow for the economic freedom described. It is an economic freedom that is enjoyed unevenly, but is still considered sacrosanct. This paper has shown how the government of NSW managed to position its proposal to privatise two prisons as a response to a financial crisis and as a rational choice because

of the cost savings that would result. Although on the face of it the arguments are persuasive, this research shows that the cost data the government has relied on to promote its policy was limited and inaccessible to the public. In fact, on numerous occasions the government admitted that it did not keep the kind of data required to make accurate cost comparisons that would enable such a claim. Even so, the government did not sway from its public line that private prisons are always cheaper and are therefore a logical solution to a government trying to resource public infrastructure whilst weathering a financial crisis.

In this particular example the technical accuracy of the data was in fact irrelevant and it did not drive the government's policy. Instead, the proposal has to be understood as a well timed opportunity to push through neoliberal reforms that benefit both the corporations who seek access to public funds that have otherwise been off limits and to governments who can withdraw from full responsibility whilst ensuring their ongoing viability in their newly constituted role as contract managers. It could also be seen as part of a more systematic attempt to discipline labour, an issue that was not the focus of this work, but one that requires future research.

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ⁱ The Way Forward was proposed in 2004 by the DCS to encourage labour reform within correctional centres. It is claimed that the main benefits of the model include reduced overtime, reduced sick leave and streamlining of operational functions...The strategic plan is to implement the 'Way Forward' model in all NSW correctional centres and it was also claimed that it was currently being negotiated with the relevant stakeholders (Public Accounts Committee, 2005, p.15) indicating the DCS's preference for this approach.

ⁱⁱ In February 2009, Prime Minister Kevin Rudd wrote an article on the global economic crisis writing that (t)he intellectual challenge for social democrats is not just to repudiate the neo-liberal extremism that has landed us in this mess, but to advance the case that the social-democratic state offers the best guarantee of preserving the productive capacity of properly regulated competitive markets, while ensuring that government is the regulator, that government is the funder or provider of public goods and that government offsets the inevitable inequalities of the market with a commitment to fairness for all

ⁱⁱⁱ In the fixed element, whether we have 97 prisoners or 100 prisoners, we are going to need a staff requirement and a management requirement (NSW Parliamentary Inquiry, 20th March, 2009, p.7).

^{iv} As the question was answered by the Commissioner and the hearing was open to the public we were emailed by Keiller McDuff from Essential Media on the 27th of February to give us the details. The email dated reads:

NOT verbatim, but my notes say...He says: \$15 million all up, that's Cessnock and Parklea and court security. \$7.4 at Parklea and \$2.6 from Cessnock initially, then when the 250 bed unit opens another \$1.1m which make \$3.7m, plus \$5m from Court Escort. A total of \$16.1million.