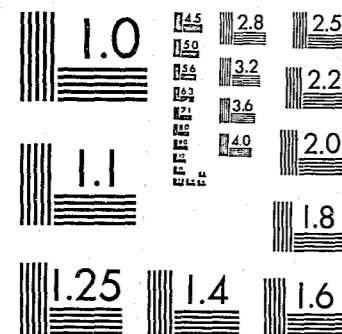


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~~PRIVATIZATION IN ONTARIO CORRECTIONS~~

A SECOND OPINION

SHEREE DAVIS

Field Practice Symposium - 1980
"Privatization in Corrections:
More Economical and Humane"

DECEMBER 1980

Preface

Given that the term "privatization" has been bandied about for most of the day, I feel it necessary at the onset to define what I mean when I use the term. This definition can be found in a recent publication from the Frazer Institute in Vancouver, authored by T.M. Ohashi and T.P. Roth entitled Privatization: Theory and Practise, Distributing Shares in Private and Public Enterprises (1980).

The verb to "privatize" has been coined to describe the action of making something private, or giving control of something to the private sector of the economy which has been controlled in the public sector. It is, therefore, an antonym for nationalize and almost a synonym for de-nationalize.

Privatization more precisely covers all situations where control is passed to the private sector whether it had resided there or not. Notice, control not simply provision, financial responsibility, or consultation but control.

Since no firm definition has emerged and no other books on the subject (by that name) have yet to be written, I think it is admissible to appropriate the term "privatization" to refer to those circumstances where control of an activity is passed from the public sector to the private sector by means of an issue of shares.

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The development of correctional or criminal policy has been seen more often than not as antecedent to changes in treatment modes. It is my belief that recent correctional policy in Ontario - "privatization" - has been determined far more by economic and political relationships than by changes in "treatment" ideology.

I content that the source of this policy can be regarded as:

- 1) an administrative response of the state to fiscal crisis
- 2) a political response to the perceived demands of accountability
- 3) a response to the changing demands of domestic pacification and control under welfare capitalism.

What is of grave importance is (a) how this policy may effect not only the nature of service delivery in corrections, but the nature of corrections itself and (b) the manner in which it may radically alter the state's relationship to the private sector - the way in which the state uses the private sector for social control. I refer both to the social control of the state defined correctional social services and the control of the private sector in corrections.

The shift toward increased social control of the private sector at this time is not limited to the corrections field but rather pervades all the human services.

Human services have changed dramatically since World War II. The trend has been towards the equity of care, personal choice, citizen participation, deinstitutionalization, decarceration and profit-making. State enthusiasm in these areas has resulted in a number of changes including a considerable expansion of the welfare system, a massive increase in definable clientele, and increased demand for new and existing services. The state socialized the large proportion of these capital costs, while, at the same time, the private sector, on a much smaller scale, began to develop peripheral services to augment the state's growing welfare system. In addition, at the ministerial level, M.C.S. established a grants program to promote the development of small, personalized agencies in the embryonic private sector service industry.

During the mid- '60's and early 70's the Ontario government continued to steadily expand its range of functions, socializing more and more capital costs while the

social surplus continued to be appropriated by the private sector. By the mid-'70's, government expenditure was outstripping government revenue - thus reducing social capital necessary for profitable accumulation and creating what O'Connor refers to as "the fiscal crisis of the state."¹

As a result government began to seek a more efficient, cost-effective method of organizing and administering its vastly enlarged responsibilities. The contract became the principal administrative device through which the government has sought to broaden its capacities and to invent new ways of accomplishing the public's business.

The contract purports to establish the private agency as a partner in the system of primary statutory responsibility for the direct administration of comprehensive, universal, personal social services. The private agency would supplement the civil service via gap-filling and substitution. The private agencies however are more than the services they render; they are also meant to be advocates, planners, documenters of social problems and linkages between the many classed in society -- a place where the haves and the have-nots meet.²

As the fiscal crisis worsened, during the mid- to late '70's, restraint in government became an explicit program of fiscal constraint. Rudolph Goldscheid, a socialist economist wrote almost 60 years ago that, "the budget is the skeleton of the state stripped of all misleading ideologies". Budgetary issues are unquestionably political in character, the M.C.S. program budget thus becomes a technique, not simply for management at the operating level, but more important, for the centralization of administrative authority. Hence, as the government increases its reliance on the provision of services from outside government, so too will it find it necessary to increase its capacity to control and manage this burgeoning private sector. Further more, as control of the private sector by the state increases, the nature and level of services provided to the community will be irrevocably altered.

¹ O'Connor, Jane The Fiscal Crisis of the State (New York: St. Martins Press, 1975) p.6

² Alan Pfler in Bruce L. Smith, The New Political Economy: The Public Use of the Private Sector, (New York: John Wiley & Sons, 1975), p. 136.

This section had side effects not anticipated by the state. Many of the organizations which developed, viewed themselves as grass roots activists representing the offender and the community. In addition to providing services which were of benefit to M.C.S., these organizations acted as a counteractive force to the state's social control mechanism.

In the meanwhile the rapid growth in population, production and spending continued. The state continued to socialize the costs of the new services. By the mid-'70's state expenditure was outstripping revenue resulting in fiscal crisis. The two functions of the state are accumulation and legitimization. Accumulation means that the state must try to maintain or create the conditions in which profitable capital accumulation is possible. The legitimization function means the state must also try to maintain or create the conditions of social harmony.³

In order to achieve the conditions necessary for accumulation the Ontario government had to extricate itself from fiscal crisis, that is return to an economic state where revenue exceeds spending. The measures necessary to do this were enunciated in the Report of the Special Program Review Committee.⁴ They outlined measures of fiscal restraint which eventually developed into a policy of fiscal constraint. Privatization was one facet of the constraints program. It not only proposed to reduce state expenditure and civil service growth, but also to facilitate control of the private sector. Control by the state apparatus can assume several forms. The most common forms and mechanisms of control are repression, exploitation, co-optation (maintenance of order rather than social reform), integration (making life easier to ensure behavioural harmony), paternalism and conformity. These are all embodied in the fee-for-service program. M.C.S. determines the nature and extent of services and who will be the service deliverer in keeping with its own philosophical mandate, which we have demonstrated is influenced by the political economy. The program of privatization, was camouflaged in a social reform effort.

³ O'Connor, p.6

⁴ Special Program Review Committee, Report of the Special program Review Committee, Toronto: 1975

By referring to this activity of increasing social control as "privatization" or "reprivatization" the state attempts to seduce the private sector into acquiescence. Using as the foundation for its arguments, the mythical partnership between the public and the private, the state attempts to extend this hegemony into new dimensions. The policy rationale alludes to community corrections and a strong, independent private sector. The mode of presentation is another facet of the legitimization function. The state conceals its actions in the guise of administrative actions reinforced by ideology rather than representing them as the political activities they are.

Perhaps this is the most important point to be made in this paper. The state or any organization will say and do virtually anything to preserve its existence. As Schumpeter writes, "Once the state exists as a reality and as a social institution, once it has become the centre of the persons who man the governmental machine and who interests are focused upon it, finally once the state is recognized as suitable for many things even by those individuals whom it confronts - once all this has happened, the state develops further and soon turns into something the nature of which can no longer be understood merely from the fiscal standpoint, and for which the finances become a serving tool."⁵ To survive the state will conceal its efforts in rhetoric or dogma which is palatable to its citizens. In this case, within the M.C.S. the phrases were privatization, community corrections and decarceration. The issue is one of semantics, "privatization" is actually "publicization". Community corrections appear to be a way in which the state is expanding its jurisdiction over an increasing proportion of the population during a period of fiscal constraint.

In the last five years there has been a drastic increase in the number of clients entering the provincial correctional system. Although rates of incarceration have stabilized since 1979, there has been a massive increase in the number of "community" sentences, i.e. probation, parole, and community service orders. Gillian Sandeman, executive director of the Elizabeth Fry Society of Metropolitan Toronto, recently notes, albeit in jest, that should the present trend continue, by the year 2001 every adult in Ontario will at one time have been a client of the Ministry of Correctional Services. Although Ms. Sandeman's comments are

⁵ The essay translated by W.F. Stolpar and R.A. Musgrave, "The Crisis of the Tax State" in International Economic Papers, No. 4, (New York, 1954) pp. 5-38.

extreme, they do illustrate a dangerous trend. As Stanley Cohen notes, social control once concentrated in the institutions, is now being dispersed in the community. This problem in language, this exercise in camouflage, this legitimization can be seen to extend to the Ministry's statement of goals.⁶ From 1965-78 the goal statement read, "To hold in custody for prescribed periods, those sentenced by the court".⁷ In 1979, concurrent to this policy shift the new statement reads, "To provide custody and community supervision as directed by the Courts . . . The emphasis should be on helping the offender develop and maintain responsible and acceptable behaviour within the community rather than on short-term custodial care".⁸ The focus on community corrections is submerged in an ideology of habilitation rather than economic reality of lower costs and a broader net of social control.

The realization of this policy may result in the destruction of the private sector as we know it. As quasi governmental organizations, the small agencies will provide services defined and required by the state. Corrections could assume a narrow unitary function. The cheaper community programs would proliferate and extend the boundaries of state social control. This in turn would colour social life in general, in terms of returning to a more conservative albeit reactionary social structure. The survival of the state will be assured and hence the inequity and injustice of welfare capitalism.

This is not to suggest that this course is inevitable. It is quite possible for the attempt of the state to be thwarted. It requires the politicization of the private sector in order to mobilize efforts to prevent the implementation of the policy in total. For this to succeed the private sector must escape from the bonds of hegemony and view the social structure for what it is - welfare capitalism not democratic pluralism. Once this is achieved the private sector must acknowledge the fiscal trends and government mandate and plan their activities accordingly.

⁶ Ministry of Correctional Services, Annual Report 1976, (Toronto: 1978) p.8, Annual Report 1980, (Toronto: 1980) p.6.

⁷ Ministry of Correctional Services, Annual Report 1978, (Toronto: 1978) p.8.

⁸ Ministry of Correctional Services, Annual Report 1980, (Toronto: 1980) p.6

The implicit state opposition to an independent private sector must be acknowledged and considered in any private sector strategy. The state has sole control only if we allow it to. "Our choice is then between the painful but confidence-instilling process of coming to know who and where we are so that we can act consistently, and therefore enhance the chances for sustained human life ... and the immensely appealing but finally empty alternative to: continuing to drift, of acting as if we know what we're doing".⁹

⁹ Nelson, Ruben F.W., The Missions of Urban Man, (Ottawa: The Ministry of State for Urban Affairs, 1976) p.33.

END