Proposed Grafton Prison will be located at Lavadia, 12.5 kilometres from Grafton.
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Grafton Prison

Grafton Prison, in its current form is an Intake and Transient Centre that houses 64 inmates. The proposed new Grafton Prison will be a correctional centre that services the northern part of New South Wales, the Queensland border, Kempsey in the southeast and Tamworth in the southwest. Upon its completion in 2020, it would become the largest prison in Australia. The new complex will accommodate 1,700 inmates – that is, 1,000 males and 300 female’s maximum-security inmates as well as 400 minimum-security male inmates.

It was announced by the NSW Government in early 2017 that after a competitive tender process, Northern Pathways Consortium was chosen as the preferred bidder in the Public Private Partnership (PPP). This consortium consists of Serco, Macquarie Capital, John Liang, and John Holland.

The Track Record of Private Prisons

SERCO

Serco is an international service company headquartered in the UK that works with government and public service providers in seven key sectors: Citizen Services, Defence, Facility Services, Health, Immigration, Justice and Transport. This company delivers services to the UK, Europe, North America, the Middle East, New Zealand and Australia.

In Australia, Serco is well known for its prisons located throughout the country. It is involved in the management of Acacia Prison, Wandoo Reintegration Facility, Western Australia Court Security and Custodial Services, and Southern Queensland Correctional Centre in Australia. In 2017, Serco (as part of the Northern Pathways

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3 David Elliot, 'Have your say on new Grafton prison' (Media Release, 13 August 2016).
Consortium) was awarded the contract for the operation of the New Grafton Correctional Centre.  

Serco claims to deliver a responsible prisoner model that promotes respect, encourages positive behaviours and allows prisoners to learn and take responsibility for managing their own circumstances. They directly manage prison accommodation, prisoner mental health services, prisoner transport, and rehabilitation programs. They also aim to reduce recidivism to improve social outcomes and reduce the burden on law enforcements.  

Despite these claims, Serco’s track record for international prison management has been met with severe criticism. Serco’s deviation from its doctrine of prisoner autonomy and rehabilitation in these instances not only questions the reliability of Serco’s management of the New Grafton Correctional Centre, but also the broader consequences of prison privatisation.

Non-Compliance With Financial Reporting

Despite identifying itself in 2004 as a reporting entity under the Corporations Act 2001, Serco has failed to disclose business segments, financial instruments, directors’ remuneration and related party transactions and balances in its financial reports. In fact, Serco now claims they are not a reporting entity and therefore under no obligation to disclose the above information. This attempt to make the company appear less significant from an accounting point of view comes as Serco’s government contract continues to grow, inflating from $323 million to $1.86 billion in the last four years alone.

Considering the lobbying Serco has carried out through Peter Costello's lobby group ECG Advisory Services, the failure to disclose ‘related party transactions’ points to a concerning lack of transparency in the methods behind Serco’s acquisition of ever-increasing numbers of government contracts. Accounting expert from the University

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6 http://www.abc.net.au/news/2017-03-16/plans-unveiled-for-australias-largest-prison-near-grafton/8360862
7 Serco Group Pty Ltd, Above n, 6
of NSW, Jeff Knapp, labels this as a failure that represents the extent to which “financial reporting among Australia’s leading proprietary companies has become a shambles”.

### Prison management

In July 2015, Serco’s contract for Auckland's Mt Eden Prison was scrapped after a Corrections Department report found organised ‘fight clubs’ were being held at the facility. Prisoners at Mt Eden were also found to be restless and frustrated with the ineffective complaints process prolong delays for accessing property. Further, a New Zealand Qualifications Authority report found that Serco left new Mt Eden employees at risk by providing “patchwork training” to its employees.

In March 2017, Serco banned the ‘Man Up’ program – which supports men with addiction, violence, anger and mental health issues – from Kohuora Auckland Corrections Facility. Many former inmates who had benefited from the program came forward criticising the ban, and a case manager at the Facility resigned in protest. Labour’s corrections spokesman Kelvin Davis questioned why the service had been axed without explanation, stating that “if there’s a programme that’s helping prisoners address their issues and become better people then I’m all for it”.

### Indictment for prison overcharging – The United Kingdom

In 2013, Serco was forced to repay £68.5m plus VAT (value-added tax) after overcharging on its contract to provide electronic tagging of offenders. The same year, the company agreed to the early termination of its contract for out-of-hours GP services in Cornwall after misrepresenting performance data, failing to meet national standards and having a ‘bullying’ culture.

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14 http://www.staff.co.nz/national/90853869/Anger-over-Serco-decision-to-ban-Destiny-Church-programme-from-South-Auckland-prison
15 https://www.theguardian.com/business/2013/dec/19/offender-electronic-tagging-serco-repay-68m-overcharging
In 2014, subsidiary Serco Company, Viapath, overcharged NHS hospitals an estimated £1 million in 2012 alone. An NHS commercial manager close to the contract stated that “When you’re taking over a contract of this complexity it’s unreasonable to expect to fix the problem on day one. But the contract was set up on the basis that they had a year to turn things around and get things in proper shape. When they were unable to do it the trust should have ended the contract. They haven’t improved efficiency. Going into a service like this and making it more efficient and ensuring that people are billed properly - that’s where you think the private sector will add value. Serco know the public sector behaves this way and they take advantage. They use the ambiguity and inefficiency of the public sector that they’re meant to be improving on to take advantage of that inherited incompetence.”

**Prison Management Failures**

The privatisation of prison services under Serco significantly failed in performing their duty in transporting prisoners as as a convicted rapist and alleged armed robber escaped from a Serco prison van during their transport duration from Greenough Regional Prison to Perth. This was followed by another prisoner escape from Joondalup Health Campus while under the watch of Serco guards too weeks later. This led WA Prison Officers Union secretary John Welch to comment that the public sector could do a better job at transporting prisoners.

Also, the management of facilities within Serco failed to meet the set standards of managing prisons. The Department of Corrective Services issued Serco a “performance improvement request”. It failed to secure doors, including movement and entrance doors in the Acacia Prison. It also faced problems with securing of “handcuff keys and locking devices”. Deficiencies were noted in the following of procedures to ensure all keys and locking devices were kept secure, controlled, monitored and accounted for at all times.

**Asylum seeker detention centre management**

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UK

In 2014, Serco and GEO were found to be using detainees in immigration detention centres run by G4S as cheap labour, with some people being paid as little as £1 an hour for domestic service.\textsuperscript{20}

This was not the first time Serco’s asylum seeker detention centres were criticised for inhumane treatment, as in February 2010, 84 women detained in Yarl's Wood went on hunger strike in protest at their prolonged detention and inhumane treatment at the hands of SERCO security guards. This protest was broken up in a brutal and inhumane fashion, with 70 women locked in a corridor for up to eight hours without access to food, water, toilet or medical care. Many collapsed and about 20, who tried to climb out of the windows, were beaten up and taken into isolation cells. Four of the women, singled out as “ringleaders”, were transferred to Holloway prison in London and held there for months without being charged with any offence or brought before a judge. In July 2010, two detainees in Colnbrook, which is also run by Serco, were found dead in their cells.

Australia

In 2010, a leaked memo by Serco revealed that the company had dismissed similar incidents in Australia, instead accusing detainees of “creating a self-harm culture” and using it as a “bargaining tool”. Serco’s management of the Christmas Island detention facility has seen detainees placed in a 10-metre-square wire cage for more than 30 hours with no access to shower, toilets or clean clothes.\textsuperscript{21} There have been at least three deaths at the Facility since 2013,\textsuperscript{22} with 11 suicide attempts being recorded over a 48-hour period in 2014.\textsuperscript{23}

G4S

The G4S is an integrated security company with a global reach that expands over 110 countries. In Australia and New Zealand, G4S is involved in the delivery of custodial management services for adult and youth justice, police support services, prisoner

\textsuperscript{20}https://www.theguardian.com/uk-news/2014/aug/22/immigrants-cheap-labour-detention-centres-g4s-serco
\textsuperscript{21}http://www.abc.net.au/news/2015-11-14/christmas-island-detainees-claim-being-treated-like-animals/6941614
\textsuperscript{22}http://artsonline.monash.edu.au/thebordercrossingobservatory/publications/australian-border-deaths-database/
\textsuperscript{23}https://newmatilda.com/2014/07/09/christmas-island-11-attempt-suicides-48-hours/
transport, court management, electronic monitoring of offenders and health care services, security services and electronic security systems. It operates in the UK, and it also manages the Port Phillip Prison and Mount Gambier Prison in Australia.24

Indictment for prisoner overcharging in the UK

In 2013, G4S was forced to repay £109m plus VAT for overcharging the Ministry of Justice for the electronic tagging of offenders. The overcharging is believed to include billing for monitoring the movements of 3,000 "phantom" offenders, including some who had been sent back to prison and even some who had died. It is thought that justice ministry officials were being billed for tagging 18,000 a day when only 15,000 were actually being monitored. In particular, the company has been barred from bidding for the next generation of GPS tagging contracts and has withdrawn from the £450m competition taking place later this year to run 70 per cent of the probation service. The shadow justice secretary, Sadiq Khan, said the sum of money involved showed the true scale of the wrongdoing that went on: "However, it is a fraction of the amount of money the company gets in various multi-million pound contracts with the public sector. This, in addition to its poor performance on a number of other contracts, has led to huge damage to the public's confidence in our criminal justice system."25

Prison management: Comparing the UK to Australia

Australia

In 2009, the West Australian coroner found that G4S had contributed to the "wholly unnecessary and avoidable" death of a 46-year-old Aboriginal man Ian Ward, who died of heat stress during a 360-kilometre journey in the back of a G4S custody van in January 2008.26 The cause of the heat stress was faulty air-conditioning: G4S had received multiple warnings from the Inspector of Custodial Services about the likelihood of such a malfunction but had failed to act on them.27 The West Australian

24 http://www.au.g4s.com/
25 https://www.theguardian.com/business/2014/mar/12/g4s-repay-overcharging-tagging-contracts
26 http://www.abc.net.au/4corners/special_eds/20090615/ward/ward_finding.pdf
coroner found Mr Ward's case highlighted "some of the dangers associated with the privatisation of services" when the state cannot delegate its duty of care to a citizen\textsuperscript{28}.

In July 2009, the coroner also found that G4S had contributed to the 2005 death of Ian Westcott, who died of an asthma attack in the G4S-run Port Phillip prison due to the failure of staff to replace a 20-cent telephone pin\textsuperscript{29}. A note found near his body read: "Asthma attack. buzzed for help. no response." In 2000, a coroner found G4S had failed to provide a safe environment at Port Phillip when four men hanged themselves in 1997. A 2006 report by the Victorian Ombudsman and the Office of Police Integrity also found inadequacies in the way prisoners were transported, with insufficient attention paid to their conditions, including "basic amenities for long trips". Prisoners' Legal Service advocate Charandev Singh said: "There are serious questions about the company's fitness to be operating any prisoner transport in the light of the repeated records of serious human rights abuses of people in their custody and care."\textsuperscript{30}

\textit{UK}

It has been asserted that private prisons function on a scheme of profit-maximisation and thus endorses increases in overcrowding. However, overcrowding is not only detrimental to rehabilitation of prisoners, it also provides an unsafe environment for them. In 2015, six G4S prison staff at a Kent child jail were charged with misconduct in public office following a BBC programme which uncovered staff misreporting incidents to avoid fines for G4S. Also, using unnecessary force and foul language to frighten and intimidate young inmates, and attempting to conceal their behaviour by ensuring they were beneath CCTV cameras or uncovered areas\textsuperscript{31}. The Ministry of Justice subsequently took over operation of the jail.\textsuperscript{32} A March 2017 report found that levels of violence at the last G4S-run child jail have been “very high” and the number of times staff have used force has doubled in the past year, with the inspectors

\begin{itemize}
\item http://www.abc.net.au/4corners/special_eds/20090615/ward/ward_finding.pdf
\item http://www.bbc.com/news/uk-england-kent-35290582
\item http://www.independent.co.uk/voices/g4s-immigration-removal-centres-detention-tinsley-house-not-fit-for-the-job-a7573916.html
\end{itemize}
attributing this to the facility’s lack of an effective or consistent approach to managing young people’s behaviour.\(^{33}\)

In 2010, an Angolan man died while being removed from the UK by G4S. In 2013 an inquest jury at Isleworth Crown Court returned a nine-to-one verdict finding that Mubenga had been ‘unlawfully killed’, although three G4S guards were subsequently found not guilty of manslaughter. Investigations into the death reported racist text messages circulating amongst colleagues on two of the guards’ mobile phones.\(^{34}\) “G4S has been responsible for countless human rights violations, and the mistreatment and even unlawful killing of people in their care” said Bella Sankey, director of policy for human rights organisation Liberty.\(^{35}\)

**Asylum seeker detention centre management**

The London-based security giant had a $244.5 million contract from the Australian government to run the Manus Island camp (“operational and maintenance services”).\(^{36}\) It lost the contract a few months ago and will formally handover to Transfield in early March. G4S was in charge of the camp when Berati died, and has defended its staff and promised to co-operate with the government’s investigation.\(^{37}\)

**Employee mistreatment**

In 2015, G4S ceased its operations in Yemen, leaving 208 security guards without compensation or any notification of the move. Following a judicial procedure before the Labour Arbitration Commission of Sana’a, the Yemeni capital, the two companies were ordered in December 2015 to pay the workers’ wages and other rights until the termination of their contracts. The court decision was wilfully ignored by G4S.\(^{38}\)

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34 \url{http://www.independent.co.uk/voices/g4s-immigration-removal-centres-detention-tinsley-house-not-fit-for-the-job-a7573916.html}
35 \url{https://www.theguardian.com/society/2016/sep/29/g4s-equality-helpline-contract-raises-serious-concern-high-court-told}
36 \url{http://www.tenders.gov.au/?event=public.view&CNUUID=5CDC5474-DC41-8318-8DD2F5A5317294AA}
38 \url{http://www.thedailyvox.co.za/workers-and-their-families-left-to-starve-in-yemen-by-multinational-companies-cedric-gerome/}
Prison Privatisation in Australia

Australia now has more people in prison than at any point in its history. As of June 2016, 37,456 people were incarcerated across eight jurisdictions. 39

In Australia, corrective services operated 112 custodial facilities nationally at 30 June 2016, comprising 86 government-operated prisons, nine privately-operated prisons, four transitional centres, one periodic detention centre (ACT), and twelve 24-hour court cell complexes (holding prisoners under the responsibility of corrective services in NSW). 40

Private prisons now incarcerate 18.5 per cent of the prison population of Australia. 41 Out of a total of 112 prisons in Australia, private contractors operate nine facilities in five different states: two prisons in Queensland, two in New South Wales, one in South Australia, two in Victoria and two in Western Australia. 42

In Australia, the government funds private companies a daily rate per inmate to cover investment, operating costs and profit under the scheme of Public-Private Partnership (PPP). Under this rate, private companies supply many or most of the service needed to operate a prison system. This includes guards, staff, food, program costs, partial medical care, and other services. Furthermore, private companies may also build new facilities without direct tax expenditures or public bonds. This gives these private companies substantial power to manage profit margin balances.

41 Productivity Commission 2014
42 Jane Andrew et al, Above n 4. 1.
The push for prison privatisation is not a new one, in fact, the campaign for ‘deinstitutionalisation’ in the 1960’s and 1970’s bears striking resemblance to current developments in prison management.

**Privatisation in NSW**

*Current Situation and Proposed Changes*

**Overview**

Prison privatisation in New South Wales is a government policy involving contracting out the operation of a prison facility, prison design, construction and finance whilst remaining a public sector responsibility. A private prison in the context of NSW is therefore a government or privately owned prison managed under contract by a private sector organisation.

Whilst the privatisation of prisons is considered a response to address prison population matters, in particular the overcrowding of inmates and excessive costs, many academics and international governments have concluded that this does not lead to increased benefits in prisoner welfare. Private prisons in Australia take the easy prisoners who require less expenditure and will pay the best, bringing to light the question as to whether private prisons really serve the interests of the community. Additionally, there is no sufficient evidence to support claims in favour of privatisations of prisons in Australia, due to the lack of available public information.

In New South Wales, there are 47 correctional facilities as of 30 June 2016, which consists of 2 privately operated prisons, 31 government-operated prisons, 2 transitional centers and 12 twenty-four-hour court cell complexes. Among 12,305 people held in prisons in 2016, 14.5% of them were housed in privately operated facilities. In 2016, the NSW Government announced that two more private prisons

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would begin to operate in the state, with the construction of the New Grafton Correctional Centre and the privatisation of the John Morony Correctional Facility. Additionally, a policy of putting prisons that did not reduce re-offending rates to tender was announced.48

**John Morony Correctional Facility**

The government is undertaking tenders in order to privatise John Morony Prison. The call for tenders closed on 19 May 2016 and the preferred tenderer is going to be announced in mid-2017. The market testing of John Morony forms a key part of the New South Wales Government’s Better Prisons reform program, which will see a $3.8 billion expansion of the prison system, as well as the benchmarking of prisons to meet performance targets.

John Morony Correctional Complex, in its current form, is a hybrid correctional facility containing both maximum and minimum-security prison complexes for both males and females located in Berkshire Park, 5 kilometres south of Windsor in New South Wales, Australia. This Complex is operated by Corrective Services NSW, an agency of the Department of the Attorney General and Justice, of the Government of New South Wales. 49

Specifically, the Complex houses the John Morony Correctional Centre, a medium-security correctional centre for remand and sentenced male offenders, the Outer Metropolitan Multi Purpose Correctional Centre, a minimum-security correctional centre for men, and the minimum/medium-security correctional centre for women. 50

The Government is seeking to enter into a Management Agreement with a public (CSNSW was also invited to tender) or private operator for: 51

- Accommodation and Custodial Services;
- Program and Industries;

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➢ Health Services;

➢ Transport and Escort Services (to and from funerals, healthcare facilities and other approved releases; and

➢ Facilities and Asset Management.

What is Market Testing?

Market Testing is one of the Better Prisons programs to improve standards, reduce reoffending and provide the taxpayers with better value for money. It occurs when the Government decides to invite the private and public sectors to compete for the right to operate a prison. 52

JMCC Market Testing

JMCC has been selected for market testing for a number of reasons, including confidence that it has a reasonable prospect of making a competitive in-house bid, and the availability of some other CSNSW employment nearby, if positions are lost due to streamlining of operations or transfer of operations to a private operator.

However, undergoing market testing will affect services including custodial, industries, Offender services and programs, administration and Justice Health. Moreover, if the in-house bid is unsuccessful and a private provider takes over management of the centre, staff could be offered position by the company or they could lose their role at the centre. Thus, privatisation and Market Testing can result in job losses. Correctional Services New South Wales (CSNSW) have already cut the number of teaching positions from 152 to 20, with plans to outsource to private companies where a teaching degree is not required for the position. 53

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Privatisation in NSW

Claims vs. Realities

With regards to the proposed ‘private-public partnership’ to build Grafton jail, we have concern regarding accountability on two levels: 54

1. External accountability, which concerns the transparency of interactions between the government and prisons. These include the terms of the contracts between the parties, as well as performance levels with respect to KPIs. It is important that these transactions are made public, where this increases both stakeholders’ accountability for their actions.

2. Internal accountability, which reflects private facilities being held accountable to the government. This is largely in terms of key performance indicators (KPIs), and whether reported figures are true or falsified.

We have reason to believe that the Grafton Prison Proposal will have limited external accountability, as it is a ‘public-private-partnership’ (PPP). This means that the government will retain ownership of the prison, whilst the day-to-day operations are outsourced to the consortium. Notably, the nature of this arrangement is problematic and ultimately unclear in terms of monetary division. Admittedly, we are aware of the value of the contract, between the consortium and the Berejikilian government, is AUD 2.6bn. However, other than this, there is minimal disclosure from either stakeholder.

Further, the disclosure of spending and results of prison services, provided by the private sector, would be a breach of commercial-in-confidence agreements: Government Information (Public Access) Act 2009 (NSW) s 32 (1) (a). Further, there is no need to disclose unsuccessful tenders for the Grafton prison: Government Information (Public Access) Act 2009 (NSW) s 32 (1) (b). This prevents public scrutiny of the PPP and therefore places into question the level of accountability private facilities are held to, by the government.

The internal accountability for the Grafton project is indeterminable. However, by examining the two other privatised prisons in New South Wales, 56 it is apparent that there is a positive correlation between privatised prison and the public’s access to information.

54 Usyd Business Paper
55 This is run by a consortium consisting of Serco, Macquarie Capital, John Liang and John Hollands.
56 Junee and Parklea
Moreover, as there is minimal transparency (for further information see: Public Accounts Committee and General Purpose Committee Inquiry) we must carefully consider the claims made by proponents of a private prison system in order to determine their validity.

**Issues in the NSW prison system**

The constant increase in the number of prisoners detained has led to inquiries in the operation of the NSW prison system and the issue of privatisation. The number of adult prisoners increased by 7 per cent between 2015 and 2016, with the NSW prisoner population being the largest of any state and territory. The adult imprisonment rate was 211 prisoners per 100,000 people in 2016, up from 200 in 2015, according to the ABS. Aboriginal and Torres Strait Islander prisoners comprised 24 per cent of the adult prisoner population. Over half of all prisoners (52 per cent) had previously served time.\(^5^7\)

Further, the offender to staff ratio has declined rapidly in the past decade; having fallen from 22.0 in 2006-2007 and 17.4 in 2015-2016.\(^5^8\) And, NSW Prisons were at 120 per cent capacity in 2015-16, the highest overcrowding rate in Australia.\(^5^9\) This indicates that whilst the prison populations were increasing in size, the number of staff to manage them was reducing. Possibly as a consequence of this, prisoner-on-prisoner assault rates were also the highest in Australia, at 23.68 per 100 prisoners – this is an increase of 10 percentage points from 2006.

**Claim 1 – Privatisation Reduces Recidivism**

The State Government has suggested that the privatisation of Grafton Prison will result in an increased focus on rehabilitation programs aiming to reduce recidivism, however, the Public Services Association’s Steve McMahon has cast doubt as to whether private funding will actually achieve this.\(^6^0\) He suggests that profit motivations may distract companies from investing the much-needed resources aimed at curbing recidivism. The incentive to cut costs and steer away from expensive...

\(^5^7\)http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4517.0~2016~Main%20Features~New%20South%20Wales~18
programs may negatively impact re-offending rates.\textsuperscript{61} Further, under the contracts usually signed by private consortiums involved in the operation of correctional facilities, there are financial penalties for breaches of safety e.g. riots, suicides, assaults etc. The notification of these breaches is done by prison staff who are aware of the system of financial penalty, meaning that there is a tendency not to notify the state of these breaches. This suggests that reducing recidivism is not the main priority of private facilities.

\textit{Claim 2 – Privatisation Increases Transparency and Performance Levels}

Further problems can be seen with this process of privatisation in the example of the Junee Correctional Facility. Key Performance Indicators (KPI) are used to ensure that prisons reach their performance targets, with performance level fees being awarded as incentives. However, despite not reaching their targets in 2006, GEO was still awarded its bonuses for target maintenance for the privately managed Junee Correctional Centre.\textsuperscript{62} The contracts for the Junee Correctional Centre were made publicly available in March 2016, however the KPI’s and PLF’s were censored. Thus, the lack of transparency in private facilities has meant that even if targets are not met level in regards to service and performance in the privately managed centre there are no consequences.

\textbf{Public objectives vs. Private incentives}

The incentives of private prison companies can easily become opposed to the aims of the humane containment and rehabilitation of prisoners – the very purposes of corrective services. The objectives of CSNSW are to “provide a safe, secure and humane custodial environment” and “program interventions to reduce the risk of re-offending” are in conflict with profit imperative of private business.\textsuperscript{63}

In 2008, Victorian Ombudsman George Brouwer’s annual report stated that when decision-making is moved from the public to the private arena, “the promotion of private interests and the corruption of proper administration tend to result.”\textsuperscript{64}

\textsuperscript{62} https://independentaustralia.net/politics/politics-display/private-prisons-tisa-and-the-human-services-privatisation-creep9970
\textsuperscript{64} https://www.ombudsman.vic.gov.au/Reports-Publications/Annual-Reports/year=2008#content-area
Summarising his concerns about the public/private sector interface, Mr Brouwer concluded:

“It is the greater interaction between the two sectors, as well as the mobility of management between them, that poses special challenges in relation to conflict of interest issues … and confusion about the ethical standards required. The interchange of personnel between the public and private sectors has also contributed to a degree of breakdown in traditional public sector employment cultures and attendant obligations.”

The Ombudsman’s first example of this is private organisations that provide prison and correctional services. Deputy Ombudsman John Taylor has also noted the “disproportionately high” increases in complaints received about private prisons in the previous two years up to 2008, expressing concern for the erosion of rights.65

Further, the 2013 report completed by The Sentencing Project suggested that private prisons perform no better than publicly operated facilities, as they are not guaranteed to reduce correctional costs to governments, but instead provide an incentive for increasing correctional populations.66 It is therefore highly doubtful that profit-driven private enterprises will address the high prison overcrowding and prisoner population rates in NSW.

Cost savings

It is an inherent value of private markets to function on a cost lowering mechanisms. When cost lowering methods compete with improved rehabilitation facilities, friction is bound to occur. One will lose out, and in most cases of prison privatisation, it is rehabilitation that suffers. Examples can be found under Claim 3.

Claim 3 – Privatisation Boosts Local Economy and Creates Jobs

In justifying this joint government and private enterprise, the Minister for Corrections David Elliott has claimed that this prison will significantly boost the number of jobs in the region. He purported that this project will supposedly create long-term, local

economic opportunities through the injection of $560 million into the local economy and the creation of 600 operational jobs. The new centre will be responsible for remand, reception and placement for specified offender groups.

Whilst Corrections Minister David Elliot markets the construction of Grafton Correctional Centre as a local job creator, the daily management of the centre is likely to result in a comparative decrease in staffing levels. The pressure to increase profits in private enterprises can distract management from overall prisoner welfare. For example, prior to privatisation over 100 officers ran Parklea Corrections Centre. Currently, 60 to 80 officers, despite an increase in inmate population, run the Centre. Understaffing issues at Grafton Prison are likely to lead to further concerns with the Prison Officers’ Union. Previous complaints by the Union following the 2004 inmate escape at Junee Correctional Centre under private management suggested that the incident was directly linked to understaffing. 67

**Articles Outlining Public Dissatisfaction with these Private Prison Proposals:**


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**Prison Privatisation in the United States of America**

The United States was the first country to introduce private prisons. This policy of privatising emerged as a response to the significant growth in the number of prisoners, leading to overcrowding as a result of the robust law and order policies seen throughout the 1980’s. Therefore, the privatisation of prisons was seen as an attractive alternative, in which the private sector could build prisons in an efficient and cheaper way. 68

In August 2016, the US Deputy Attorney-General Sally Yates issued a memorandum stating that the US Department of Justice would “begin the process of reducing- and ultimately ending- the use of private prisons”. The memorandum stated that whilst “private prisons served an important role” “they compare poorly to our own facilities. They simply do not provide the same level of correctional services, programs, and resources.” The memo continued to say that private prisons do not substantially reduce costs, nor do they provide services, which are essential to reducing recidivism. 69

The memo marks a significant departure from the trend towards prison privatisation in the United States, probably as a result of the significant (800 per cent) increase in the incarceration rate. Between 1999 and 2014, inmates in privately-run institutions increased by 90 per cent. 70

At the centre of controversy surrounding the US model of prison privatisation is the formula that US Governments use for payment to private prison contractors. This frequently entails that the government pays private providers a fixed amount per incarcerated person, with the company deriving its profit margin from cost cutting.

This has proved problematic within the broader context of the US Institutions of government. The adoptive model effectively entails that the correctional industry derives significant benefit from an ever-increasing number of incarcerated individuals. This acts as a counter to the broader social objectives of a reduction in

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recidivism. More insidiously, the large and increasing role of private campaign contributions in US policymaking appears to be playing out with a possible link between campaign contributions from private prison operators and retribution-focused public policy. A report by the Justice Policy Institute found that private prison operators in the United States were currently earning 3.3 billion in annual revenue, with 10 million being spent on campaign contributions, and 25 million on lobbying since 1989.\(^{71}\) Most significantly, the report found that policy initiatives such as California’s ‘three strike’ law, and Arizona’s controversial SB1070 Immigration law, had been covertly supported by the private prison operators, which stood to gain financially from an increase in the incarcerated population.\(^{72}\)

As a result, the experience of the United States with the existing pay-per-inmate model of privatisation has not worked to significantly reduce rates of recidivism, nor has it reduced other core objectives of the system of incarceration, such as cost, with Sally Yates citing a 15 per cent increase in the cost of incarceration in private institutions. However, the overall rate of crime in the United States has fallen significantly since 1980. Though, the egregiously high rate of incarceration, combined with a significant decline in the conditions of prison, does not seem to be comparable to a comparatively small reduction in the crime rate.\(^{73}\)

\(^{72}\)https://www.washingtonpost.com/posteverything/wp/2015/04/28/how-for-profit-prisons-have-become-the-biggest-lobby-no-one-is-talking-about/?utm_term=bd740dbbee0
\(^{73}\)http://www.economist.com/blogs/economist-explains/2013/08/economist-explains-8
http://www.economist.com/node/16636027
Prison Privatisation in the United Kingdom

The United Kingdom has seen over a 90 per cent increase in its prison population between 1990 and 2015. The numbers have gone from 25 to 182 prisoners per 100,000 head of the population in England and Wales since World War II until now. Not unlike the US, prison population increase has been largely attributed to the proliferation of ‘tough on crime’ legislations since 1994. In addition to this, the tendency to pass out “indeterminate” life sentences saw a rise since June 2002, which in turn led to an even more detrimental effect to the already overcrowded prisons in the United Kingdom. Inevitably, this has led to the rise of privatised prisons in hopes of reducing the burdensome cost needed to support the considerable population of incarcerated people. Report data has shown that the United Kingdom is the country with the most private prisons in Europe.

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74 Grahame Allen and Noel Dempsey, ”Prison Population Statistics” (House of Commons Library, July 2016). Briefing paper number SN/SG/0434
Evaluation of Prison Privatisation Models

An overwhelming trend in western nations towards an increasing prison population, coupled with fiscal and economic pressures, has led countries such as the United States and the United Kingdom to shift the operation of prisons to private contractors. More broadly, these issues surrounding the privatisation of prisons are pertinent in Australia as a large percentage of prisoners are held in private facilities. With the emergence of private prisons in NSW, it is of vital importance for policymakers and community at large to carefully examine the shortcomings of privatisation and the potential models available for implementation.

Considering the evidential proof of operational failures, misuse of power, and focus on profit-maximisation instead of rehabilitation, questions must be asked as to the suitability of the operation of private prisons in Australia. If these violations have taken place in the past, there is no guarantee that the standards of facilities, education, and rehabilitation programs under a system of penalties will be any different in the future. Looking specifically at the Serco, it is clear that the profit imperatives of the company interfered with their commitment to reducing recidivism.

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