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The penal voluntary sector in England and Wales: Beyond neoliberalism?

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Abstract

In response to policy developments aiming to increase the involvement of penal voluntary organisations in criminal justice, a recent flurry of commentary has provided a *marketised* understanding of the penal voluntary sector and attempts to privatise it. Although this commentary has contributed significantly to the limited literature on the sector, the centrality of neoliberal policy in analysis is problematic. This article provides a critique of relevant commentary and offers a new exploration of the penal voluntary sector that extends beyond neoliberalism and marketisation. A preliminary exploration of an alternative model is made, using political economy to provide a nuanced and politically enabling understanding of the role of voluntary organisations in criminal justice.

Key Words

Voluntary sector. Criminal justice. Commissioning. Market reform. Relationships with the state.

Word count: 8134

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Introduction

Recent policy developments suggest a further increasing role for penal voluntary organisations (PVOs) through marketisation in the criminal justice system (CJS). Notable developments include the broad Big Society initiative, the public service reforms suggested in the *Modernising Commissioning* Green Paper (Cabinet Office, 2010) and the criminal justice specific *Transforming Rehabilitation: A Strategy for Reform; Breaking the Cycle* Green Paper and Corston report (MoJ, 2013; MoJ, 2010; Home Office, 2007). In response, a flurry of academic commentary has discussed the government's “dramatically increased engagement” with the penal voluntary sector (PVS) as a potential provider of criminal justice services under contract (Neilson, 2009: 408; see also Maguire, 2012; Morgan, 2012; Corcoran, 2011; Gojkovic et al., 2011; Mills et al., 2011; Meek et al., 2010; Benson and Hedge, 2009; Corcoran, 2009; Silvestri, 2009). The impact of neoliberal policy reforms has been a key theme in academic commentary and commentators have discussed the PVS *in terms of* its links to the “wider agenda of 'post-welfare' state modernization” (Corcoran, 2011: 34) and the “marketisation of criminal justice” (Maguire, 2012: 484; Morgan 2012). The aim of this article is not to critique neoliberal policies and the the marketisation of criminal justice *per se*. Rather, it critiques the centrality of the market in recent commentary and makes a preliminary indication of an alternative analytical direction which is more theoretically complete and politically enabling.

This recent body of commentary has stimulated discussion about the PVS and made an important contribution to the limited body of knowledge in this area. Scholars have acknowledged that research examining the role of the PVS in criminal justice is “lacking” (Mills et al., 2011: 195) and that the PVS remains “a descriptive rather than theoretically rigorous concept or empirically defined entity” (Corcoran, 2011: 33). Nevertheless, commentators have made strong arguments about the impact and importance of neoliberal reforms on the PVS. Market reforms have apparently

raised “troubling issues for the voluntary sector” (Neilson, 2009: 401), impacting upon “the sector’s independence and ethos” (Mills et al., 2011: 193). Such reforms are threatening the “distinctiveness and critical voice” of the PVS (Mills et al., 2011: 193) and causing “contemporary dilemmas of institutionalization” (Corcoran, 2011: 33).

Although timely and important, these arguments are problematic because the centrality of marketisation in this literature results in a *partial* analysis that tends towards economic determinism and neglects the agency and heterogeneity of the PVS. This article is by no means intended to imply that the PVS is beyond the effects neoliberal policies or immune to marketisation and institutionalisation. Neoliberal penal reform undeniably impacts upon the PVS and forms an important area of inquiry. Furthermore, PVOs clearly take proposed market reforms seriously. Following the publication of *Breaking the Cycle*, Clinks (the umbrella organisation for penal voluntary organisations) consulted with their members and produced a formal response to the paper (Clinks, 2011). At least 28 PVOs also produced individual responses to the paper (e.g. Howard League, 2011).

However, a *broader* approach to studying the PVS is required. Neoliberal penal reforms are undeniably occurring, but it is imperative that scholars acknowledge the considerable political impact of how these processes are theorised (Hart, 2002: 813; Zedner, 2002). Neoliberal penal reforms are neither monolithic nor cohesive forces and to portray them as such is reductionist and politically disabling (Hart, 2002: 813). It is therefore necessary to theorise the relationship between the PVS and the CJS in a way that *does not neglect* economic variables, but considers them in a wider context. This article provides an introduction to the PVS and contextualises neoliberal penal reform, before offering a new exploration of the penal voluntary sector informed by political economy. This new exploration extends beyond neoliberalism and examines the agency, innovation

and heterogeneity found amongst PVOs.

Neoliberalism and a Brief Political Context

Neoliberalism is a complex and often ill-defined term (Mudge, 2008). The key tenet of neoliberalism is that privatising previously public services stimulates cost-efficiency and therefore saves public money (Corcoran, 2009: 33). Neoliberalism is comprised of three interconnected 'faces' (Mudge, 2008). Its intellectual face places an “unadulterated emphasis” on the market as the source and arbiter of human freedoms; its political face evinces a new 'market-centric politics'; and its bureaucratic face can be seen in privatisation policies which aim to 'desacralise' institutions such as criminal justice and health care, which had previously been protected from private market competition (Mudge, 2008: 703-4; Corcoran, 2009: 33). Although all three faces are evident in and relevant to this discussion, it is the bureaucratic face that is most significant here.

The process of reconfiguring the delivery of criminal justice services began in the 1980s and continued under a series of successive governments. The Conservative Thatcher government introduced neoliberal policies in the 1980s and 1990s, which saw previously public services (e.g. criminal justice, health) become privatised through the creation of competitive service delivery markets (Ryan, 2011). In theory, these markets would drive down the cost of the expensive Welfare State (Ryan, 2011: 517; Corcoran, 2009: 33; Garland, 1996: 453). This government enacted the *Criminal Justice Act* in 1991, part of which enabled prisons to be transferred to private management and required Probation boards to commission drug programmes for offenders from voluntary and private providers (Corcoran, 2011: 36-7). This unsettled the state monopoly on the allocation and delivery of punishment which had been established around 1877 (Ryan, 2011: 517; Maguire, 2012: 484). It is important to note that this monopoly was unsettled due to neoliberal *economic* concerns

that developed *outside* the penal apparatus (Ryan, 2011: 516).

The Conservative-inspired changes were then “substantially endorsed by New Labour” (Ryan, 2011: 518) who continued the process of externalisation to create a 'mixed economy' of public services (Corcoran, 2011: 37). The *Offender Management Act* of 2007 emphasised the role of market discipline in regulating performance and further enabled some of the responsibilities traditionally associated with probation to be taken on by private and voluntary organisations (Meek et al., 2010: 4; Corcoran, 2011: 37). Furthermore, in response to the Corston report in 2007, £12 million of Ministry of Justice (MoJ) funding was allocated to voluntary organisations for the provision of community-based support to women offenders and women at risk of offending, to divert them from custody (NEF, 2012: 7; Mills et al., 2011: 104). This short term funding was then replaced by the Women's Diversionary Fund, which was established in 2010 to sustain and develop the women's community services sector following heavy MoJ budget cuts. The MoJ contributed £1 million to the fund and the Corston Independent Funders' Coalition of 20 independent philanthropic foundations matched this sum (NEF, 2012).

With the publication of the *Breaking the Cycle* Green Paper (MoJ, 2010), it seems the ConDem coalition government are “set to continue along Thatcher's radical path and roll back the state still further” (Ryan, 2011: 518). This Green Paper emphasised the failures of the “top-down approach” and stated the government's “clear commitment to decentralisation” (MoJ, 2010: 6,8). By emphasising the role for voluntary, charitable and profit-making groups in running penal services, this strategy combines the ideological imperative for a smaller regulatory State with the material imperative for fiscal austerity at this time of a record UK public deficit (Ryan, 2011: 518).

Commentators argue that the voluntary sector has been *harnessed* to this “wider agenda of

'post-welfare' state modernization” (Corcoran, 2011: 34, Maguire, 2012: 484). The voluntary sector has had a clear political appeal, being in line with the Conservative ideology of privatisation and then the New Labour rhetoric of community (Ryan, 2011: 517; Corcoran, 2011: 36). In addition to these ideological links, the voluntary sector has had a pragmatic appeal, as it can sometimes operate criminal justice interventions very cheaply. The series of neoliberal modernization projects described above have ostensibly been “*shaping* voluntary sector agents to the demands of the penal marketplace” (Corcoran, 2011: 45, emphasis added).

The Penal Voluntary Sector

In their simplest form, voluntary sector organisations are located between the market and the state (Kendall and Deakin, 2010: 221). Corcoran (2011: 33) provides a useful working definition of penal voluntary organisations as “charitable and self-defined voluntary agencies working with prisoners and offenders in prison- and community-based programmes”. The limits of the penal voluntary sector are blurry, and at present the term encompasses both organisations who are *solely focussed* on offenders and/or their families (e.g. FPWP Hibiscus, Nacro, Prisoners' Advice Service, The Howard League for Penal Reform) and organisations for whom offenders and/or their families are one of their *multiple client groups* e.g. The Fawcett Society (campaign for women’s equality); Phoenix Futures, RAPt (provide drug and alcohol services); Hampton Trust (support the vulnerable and socially excluded); Ormiston Children’s Charity, Barnardo’s, Catch 22 (support young people).

Voluntary organisations have a range of functions and most voluntary organisations are multi-functional (Kendall and Knapp, 1995: 67). Many PVOs perform a *service delivery* function, whereby voluntary agencies supply a direct service to clients, either in kind or in the form of information and support (Kendall and Knapp, 1995: 67). For example, Fine Cell Work trains

prisoners in paid, skilled, creative needlework (FCW, 2010: 2). Where PVOs are involved in 'privatised' or contracted-out work, this usually entails service delivery. But the activities of the PVS extend beyond service delivery.

Numerous PVOs also have a *campaigning* function, where they collect information about a specific interest and use this information to put pressure on decision makers in a public arena through direct action, campaigning, lobbying and advocacy to change policy and practices (Kendall and Knapp, 1995: 67). The work of The Prison Reform Trust (PRT) illustrates this function: the PRT aims to create a “just, humane and effective penal system” by “influencing Parliament, Government and officials towards reform” (PRT, 2010: 4).

Some voluntary organisations have a *mutual aid* function, where the focus is on self-help and exchange around a common need (Kendall and Knapp, 1995: 67). For example, The Apex Trust run the ACT 4 Women Project in Merseyside, a women-only peer support project providing opportunities for project beneficiaries to also support their peers in building self-confidence and self-reliance (Apex, 2010: 4). There is also a *co-ordinating* function, which involves umbrella organisations providing services to other voluntary sector bodies (Kendall and Knapp, 1995: 67). CLINKS is one such organisation, supporting voluntary and community organisations who work with or for offenders and their families (CLINKS, 2010: 2).

The Market in Criminal Justice and the PVS

As a result of neoliberal reforms over the last three decades, there is now a mixed economy of service provision in criminal justice, with private and voluntary providers operating alongside the public sector (Ryan, 2011: 517; Corcoran, 2009: 33; Garland, 2001: 98). Numerous areas of the

penal system are privatised at present, across a spectrum of activities that runs from individual regime elements e.g. prison catering services being outsourced to private companies, to the wholesale transfer of responsibility to private contractors for the provision and daily running of penal institutions (Zedner, 2004: 276). HMP Wolds was the first private prison in the UK, which opened in 1992 and there are now 11 prisons managed under contract by private companies such as Serco and G4S Justice Services. The first private probation contract was won by Serco in 2012, involving the supervision of probationers on community payback sentences in London (Travis, 2012). Although there was no PVS involvement in that contract, Serco formed a 'pioneering' probation alliance with two PVOs shortly after, in order to bid for probation service delivery contracts (Serco, 2012).

PVOs are directly involved in 'privatised' or contracted out service delivery in a number of ways. No charity has taken sole responsibility for the provision or daily running of a penal institution. But, the charities Turning Point and Catch 22 are "leading voluntary sector partners" to the private provider Serco. This consortium holds a £415 million contract to construct the new prison at Belmarsh West and operate it for 26.5 years, with the two charities providing rehabilitation and resettlement services (Serco, 2010). Whether charities in such consortia are in fact equal partners or junior partners who are essentially 'bid candy' is under debate (Maguire, 2012: 485). PVOs are also involved in low-level privatisation, i.e. the contracting out of individual regime elements (Zedner, 2004: 276). The Prison Advice and Care Trust hold contracts to run visitor centres at 15 prisons (PACT, 2011: 18). On a smaller scale, Contact Cheshire Support Group holds a three year contract to run the visitor and first night centre at HMP Styal (CCSG Annual Report, 2010; CCSG, 2011: 10).

In a similar vein, payment by results (PbR) pilot schemes are currently being run in the CJS.

In order to encourage greater efficiency and effectiveness in service delivery, the contractor's payment is linked to results achieved (Puddicombe et al, 2012; Maguire, 2012; Fox and Albertson, 2011). If results fall below an agreed performance threshold, the contractor may receive reduced or no payment. A notable pilot is based at HMP Peterborough, which is privately run by Sodexo. The pilot programme has been co-ordinated by Social Finance, who raised funding of £5 million to operate the programme working with both short-sentence prisoners inside prison and after release, with the aim of reducing reconviction rates. Charities involved in the pilot include St Giles Trust, Ormiston Children and Families Trust and YMCA (Social Finance, 2011).

An Overview of Recent Commentary

The *Breaking the Cycle* Green Paper emphasises that decentralising criminal justice services “provides a once in a generation opportunity” for providers from all sectors to work alongside staff in the criminal justice system in order to make a “real difference” (MoJ, 2010: 9). Despite this positive policy rhetoric, commentators have detailed how participating in the market for criminal justice services brings *risks* for PVOs. It is easy to see the clash between the voluntary sector's distinctive ethics of compassion and focus on the needs of individual offenders (Silvestri, 2009: 3,4; Corcoran, 2008: 37) and Government policy, which has often implied “greater use of imprisonment, for longer periods, and more intensive supervision in the community” (Faulkner, 2007: 144; see also Maguire, 2012: 486). As a result of neoliberal penal reforms, PVOs are argued to be under threat of becoming servants of government and, ultimately, agents of penal expansionism (Meek et al., 2010: 7; Silvestri, 2009: 4).

The market in criminal justice services puts voluntary organisations at risk of 'goal distortion', i.e. moving away from their original mission in the pursuit of contract funding and

compromising their campaigning and advocacy roles, in favour of delivering services for statutory organisations (Mills et al., 2011: 207; Neilson, 2009: 407; Kendall, 2003: 78). The potential risks to the *campaigning* roles of voluntary organisations posed by the growth of penal service markets have been well-documented, with concerns thus far centring around the 2008 Nacro bid to run a prison. This has an understandably prominent place in the literature, being contentious because of Nacro's "strength as a campaigning organisation", with a "firmly established policy line on the expanding secure estate" (Neilson, 2009: 406, 404; Corcoran, 2011: 31; Mills et al., 2011: 195). Although the Nacro bid was ultimately unsuccessful, it threatened to undermine the organisation's campaigning and advocacy roles (Neilson, 2009: 406).

As a result of the market in criminal justice services, it is feared that increasing numbers of voluntary organisations will compromise their independence and become quasi-governmental: engaged with and dependent on the government (Neilson, 2009: 408). Operating in this market therefore poses risks to the "potential loss of the sector's distinctiveness and critical voice" (Mills et al., 2011: 193). Similar dilemmas apply across the voluntary sector (Carmel and Harlock, 2008; Paxton and Pearce, 2005; Ilcan and Basok, 2004; Kendall, 2003; Evans and Shields, 2002). However, these dangers could be particularly pertinent for the penal voluntary sector, as the "unpopular nature of work with offenders" means that voluntary organisations working in the criminal justice arena "are more likely to be dependent on contracts" (Mills et al., 2011: 207; Gojkovic et al., 2011: 18).

The Centrality of Markets in Recent Commentary

Funding is at the heart of the argument for a marketised understanding of the PVS. Commentators suggest that because many penal voluntary organisations are *heavily reliant* on statutory funding

(Gojkovic et al., 2011: 18; Corcoran, 2011: 32; Mills et al., 2011: 193; Ryan, 2011: 519; Neilson, 2009: 401; Silvestri, 2009: 3), the voluntary sector is highly *vulnerable* to “being drawn into [...] marketised penal reform” (Corcoran, 2011: 46) because it is feared that voluntary organisations could therefore be compelled to respond to policy developments geared to increase their role in criminal justice provision (Mills et al., 2011: 194). If they do not, their survival could be threatened, because “funding will follow those organisations willing to adapt their priorities to fit those of the criminal justice system” (Mills et al., 2011: 195).

Voluntary organisations are apparently unable to resist neoliberal reforms, because they “do not have the [...] option” to avoid participating in the market for penal services (Garside, 2004: 9; Mills et al., 2011: 207). If voluntary organisations like Nacro or SOVA fail to win contracts to provide services to the CJS, the implications are “serious”, because, unlike private sector organisations, they do not have the option to sustain their existence through alternative operations (Garside, 2004: 9). The growth of competitive service commissioning has occurred alongside reductions in government grant funding, which further increases the imperative to participate (Maguire, 2012: 485; Meek, et al., 2010, p.8). Following this line of argument, PVOs are either “rolling over” in the face of pressures to compete for service delivery contracts “or going under” and failing to survive (Benson and Hedge, 2009: 35). Just as “the official conception of the voluntary sector is that of biddable service deliverers” (Corcoran, 2009: 32), the criminological literature tends to selectively focus on the role of voluntary organisations as *competitors in the market for penal services*. Following this literature, becoming proactively competitive appears to be a *financial necessity* for penal voluntary organisations (Corcoran, 2011: 43).

There are a group of PVOs who are “highly dependent” upon statutory sources of funding (Corcoran, 2011: 41). Examples include Langley House Trust, Nacro and St Giles Trust (Langley

House Trust 2011: 8; Neilson, 2009: 403; St Giles Trust, 2010: 3). There is a particular dependence on statutory sources of funding amongst the *largest* PVOs, which could be argued to have the greatest impact amongst the sector. However, the aforementioned concept of funding following organisations that adapt their priorities to fit those of *the criminal justice system* (Mills et al., 2011: 195) is too simplistic and overlooks the agency of PVOs. This is not to say that the PVS has inviolable agency and an unassailable ability to innovate. Neoliberal policies and the growing market in criminal justice have an important impact on the PVS, but these are neither omnipotent nor monolithic forces and commentators must analyse these developments critically.

The PVS: Beyond Neoliberalism

Political Economy

Political economy provides a useful theoretical approach, which emphasises that the economic “must be seen as part of a complex set of interdependencies with individual, moral, cultural and other social dimensions” (Reiner, 2012: 302). Although economic factors undeniably form an important element of analysis, the broader and more nuanced theoretical approach provided by political economy stands in contrast to the “unadulterated emphasis” that neoliberal approaches place on the market as the source and arbiter of human freedoms (Mudge, 2008: 704). Although early work using political economy (such as that of Rusche and Kirchheimer) is acknowledged to be economically determinist, a sophisticated use of this approach can provide an analysis of how economic pressures operate alongside other *non-economic forces* to shape penal practice (Garland, 1990: 110).

Theorising the PVS in this way enables the production of nuanced accounts that acknowledge the multilayered and diverse acquiescences, struggles and contestations that have

resulted from and exist independently of neoliberal penal reforms (Hart, 2002: 813). More broadly, political economy can provide “an account of interacting structures and processes, in which class relations are sustained (or transformed) by means of ideological and political struggles as well as by economic forces” (Garland, 1990: 111). The approach provided by political economy has many potential applications for studying the PVS. In this piece, it is used primarily to counter the tendency towards economic determinism and to stimulate an examination of the PVS that moves beyond the market-centric perspective by discussing the agency, innovation and heterogeneity found amongst PVOs. This preliminary application of political economy challenges the dominant argument that market reforms bring the risk that the PVS will become institutionalised and ultimately servant to government. Instead, the examples provided below indicate that contract funding is not a universal draw or necessity for PVOs. Some PVOs will not 'buy in' to neoliberal reforms because their organisational ideologies will not permit it, or they may participate in the market for criminal justice services on their own terms. The transformative potential of the PVS and its role in increasing the social capital of a vulnerable group is largely beyond the scope of this introductory article, but it is important to note that the campaigning and advocacy work of organisations that remain outside the market in criminal justice services will not be compromised as a result of financial dependence on government.

A nuanced economic analysis

First, a nuanced analysis of economic factors is provided. Although commentators have tended to present statutory funding as a unitary entity, in fact there are multiple sources of statutory funding. Charities obtain grant and contract funding from a variety of statutory agencies, within and outside criminal justice. The sources of statutory funding used by penal voluntary organisations include: HM Prison Service; The National Probation Service; Individual Probation Trusts; NOMS; The

Ministry of Justice; The Department of Health; Primary Care Trusts; The Department for Education; City and County Councils; The Homes and Communities Agency; Supporting People and even the European Commission.

Even amongst criminal justice funders, there are multiple agencies involved, e.g. The National Probation Service, individual Probation Trusts and NOMS. These sources do not exercise monolithic control and their money will come with varied restrictions (and freedoms). The priorities of funders are complex and a product of the structures and aim(s) of individual agencies. Although money from any funder will usually be accompanied with some exercise of influence on the recipient (Ellis Paine et al., 2012), it is important to problematise the impact of these influences.

Furthermore, it is important not to infer that the apparently “unpopular nature of work with offenders” (Mills et al., 2011: 207; Maguire, 2012: 491) precludes the possibility of charities fundraising from non-statutory or non-contractual sources, as this is not the case. In fact, a plurality of funding sources are used by PVOs to sustain their operations. Grants from charitable trusts and foundations, donations from individuals and other organisations, social enterprise and corporate support are also vital to the continuing existence of many PVOs. Grant-making trusts play a particularly important role, being “one of the most significant funders – if not the most significant funder – amongst charities working in the criminal justice system” (The Joseph Rank Trust, 2012: 5).

Non-statutory sources of funding have a twofold importance: as primary sources of funding for over 40% of PVOs and as secondary sources of funding for PVOs that are mainly public-funded. Using a dataset from the 2008 National Survey of Third Sector Organisations (NSTSO), Gojkovic et al. found that public monies comprised the *primary* source of funding for 56% to 59%

of organisations who work with offenders (2011: 17). This dataset and associated analyses make an important contribution to the evidence base on the third sector in the UK but potentially privilege the responses of organisations in receipt of public funding, as these organisations are likely to have a greater interest in returning completed surveys (Gojkovic et al., 2011: 17; Clifford et al., 2010). PVOs with a particular dependence on statutory sources of funding are amongst the largest in the sector and thus have the greatest levels of contact with prisoners and (ex-)offenders. Again, although public funding is evidently important, it is not the only source of funding available to or used by PVOs. Statutory grants may have reduced alongside the growth of commissioning and the availability of funds from other charitable bodies may have reduced as a result of the economic climate and the significant philanthropic investment made into the Women's Diversionary Fund, but *alternative options remain* and are used by charities. To provide a more theoretically complete account of the PVS, scholars should acknowledge and discuss this.

A large number of voluntary organisations are not dependent upon statutory funding, or even in receipt of it. The Howard League for Penal Reform is a notable example that has a multimillion pound income yet is on principle reliant on donations from individuals and trusts to carry out its work (Howard League, 2010). These PVOs do tend to be smaller than corporate-style organisations such as Nacro that figure heavily in the literature, but nevertheless should not be entirely overlooked. Furthermore, the spectrum of funding runs from organisations that are *heavily* dependent on statutory sources of funding to self-proclaimed *independent* organisations who do not receive any statutory funding, e.g. INQUEST, Prisoners' Advice Service (PAS, 2010: 2) and Unlock (Unlock, 2010: 2). At various points between these two extremes of the funding spectrum, there are three other key configurations. First, there are a group of organisations that receive *no income* from statutory sources without necessarily being ideologically opposed to it, e.g. AFFECT, Birth Companions (Birth Companions, 2010: 6) and Prisoners' Penfriends. Second, organisations that are

mainly dependent on grants from trusts and charitable foundations might also earn *some income* from statutory sources e.g. Action for Prisoner's Families (APF, 2010: 5), The Concord Prison Trust (Concord Prison Trust, 2010: 7, also 4) and Feltham Community Chaplaincy Trust (FCCT, 2010: 11, also 8,14). Finally, some voluntary organisations earn a percentage of their funds from *social enterprise*, e.g. Fine Cell Work (FCW, 2010: 2) and The Prison Advice and Care Trust (The Prison Advice and Care Trust, 2010: 13).

Even organisations that deliver services under contract to statutory organisations often simultaneously run other programmes that are not funded through statutory sources. Alongside their MoJ contract to provide resettlement services at HM YOI Thorn Cross, New Bridge run a nationwide befriending service for prisoners that receives no Prison Service or statutory funding (New Bridge, 2010: 21). New Bridge deem their befriending service to have transformative potential, providing this example of a life-sentenced prisoner: “A letter, a visitor, a New Bridge befriender, changed this man's life completely. Somebody did care and that gave him hope and with hope came the willpower to better his life” (New Bridge, 2010: 3). Similarly, Contact Cheshire Support Group run the visitor centre at HMP Styal under contract to HM Prison Service, but simultaneously employ a Family Link Worker who works with the families of offenders and prisoners in the First Night Centre, funded by the Westminster Foundation (CCSG Annual Report, 2010).

It is undeniable that statutory sources of funding are important for PVOs, that there is a market in criminal justice services or that many voluntary organisations face financial difficulties. However, the inference that competing for service delivery contracts and accepting the associated operating parameters is the only means of survival for PVOs is misleading. Sources of funding used by the PVS are in fact multiple and varied.

PVO Heterogeneity

Commentators have acknowledged that the PVS is far from “homogeneous” (Mills et al., 2011: 204), being composed of organisations that are “highly differentiated” (Corcoran, 2011: 40). But, the heterogeneity of organisations in the penal voluntary sector remains largely overlooked by commentators. The arguments about the financial necessities of participating in the market for penal services are powerful, but only directly relevant to *certain* voluntary organisations. Although the proportion of penal voluntary organisations that are in receipt of statutory funding is unknown, across the general voluntary sector “three quarters of charities receive *no government funding*” (Corcoran, 2011: 41, emphasis added). Nevertheless, commentary is focussed to emphasise the impact of the market in criminal justice services.

For example, Mills et al. (2011: 193) discuss the relationship that is developing between the penal voluntary sector and the state *through* neoliberalism and the process of commissioning. Corcoran (2011: 33) stresses that political reforms “are poised to contribute to the exponential growth of a penal voluntary sector”. But this selective focus obscures how participating in contracted-out service delivery will only ever be a priority concern or even a possibility for a certain type of voluntary organisation (Unwin and Molyneux, 2005: 37). Those without the organisational capacity, infrastructure and funds required to participate in commissioning processes, those without the need or desire to do so and those *ideologically opposed* to market reforms will be largely unaffected. As such, the government's “dramatically increased engagement with the sector” (Neilson, 2009: 408) could better be conceptualised as *economic* engagement with *part of* the PVS.

Smaller organisations seem notable only as a result of concerns about their “future viability” (Mills et al., 2011: 195) due to their inability to participate in the market of criminal justice: such

providers are ostensibly “being crowded out by a 'Tesco-effect' in commissioning cycles, whereby the economies of scale and national programmes provided by large players prove attractive to cautious statutory purchasers” (Corcoran, 2011: 41). But not entering this market (either by choice or necessity) does not render these organisations extinct. Operating with smaller numbers of service users does not mean that such organisations are worthy of scholarly oversight.

Agency and Innovation: Individual Dimensions

The agency of PVOs ought not be overstated. But, the scholarly emphasis upon how governments have shaped the voluntary sector masks how the growth of the market in criminal justice services has actually elicited a *variety of responses* from voluntary organisations. The claim that PVOs are “rolling over” to pressures to compete for service delivery contracts “or going under” is misleading (Benson and Hedge, 2009: 35) and taking this line of argument means that the *agency* and *innovation* displayed by some organisations remains undiscussed.

In fact, attitudes to contracting vary widely across the sector. I now provide three examples of the attitudes to contracting expressed by three PVOs in their annual accounts. These examples come from PVOs with very different organisational structures and income levels and are intended to demonstrate the range of attitudes that exist in the sector. Nacro are “actively working with government to identify opportunities in our market sector where government has announced an intention to outsource services” and are responding to increases in performance related contracts by “adapting our operational structures to address the monitoring of performance” (Nacro, 2010: 6-10). Fine Cell Work (FCW) make no mention of contracting or intention to contract in their accounts, rather they are mitigating the risk of a funding drop through a business plan “that seeks to expand the charity's product sales” with the aim of building “a sustainable social business and charity with

the prisoners as stakeholders in the enterprise”. In 2010, the year of the economic recession, FCW saw an increase in voluntary income and product sales and their donations income (as opposed to income from grant-making trusts) rose by 70% (FCW, 2010: 2-9). Community Resettlement and Support Project deem attracting funding to be a “significant challenge” as they are a small, new, local charity working with an “unpopular” client group; have “insufficient resources and capacity to bid for or enter into partnerships for the delivery of contracts”; and their principal activity is befriending, which is often considered “an ambiguous activity by many funders who are concerned with targets and outcomes”. Nevertheless, the charity has secured funds from Volunteering England and is thus “in a good position to move forward and achieve its objectives” (CRSP, 2010: 13, 14, 19). These examples indicate that the apparent necessity for PVOs to become proactively competitive in order to survive is not applicable across the sector.

Despite widespread struggles for funding amongst voluntary organisations, it is important for commentators not to overlook the capacity of PVOs to pursue sources of income that fit with their organisational priorities. Even organisations that have previously received high proportions of statutory funding may be able to minimise or remove this reliance. For example, Apex Charitable Trust experienced two extremely challenging years due to statutory funding agreements coming to an end alongside reduced stock market values and dividend income. In order to ensure its “ongoing viability”, all head office staff accepted a reduction in their paid hours of work, without which “the work of the Trust would have ceased”. The Trust also designed and adopted a new strategy of developing “services that are multi-funded, not dependent upon statutory contracting” (Apex, 2010: 4-10).

Although public funding apparently exerts a “magnetic pull” (Corcoran, 2009: 32), this is not *universally* applicable to penal voluntary organisations. The strength of the magnetic pull has

been overstated and some appreciation of how PVOs engage with statutory institutions other than *economically* is also important. For example, Unlock (the National Association of Reformed Offenders) have a clear policy of “not seeking Government funding for service delivery”, instead sustaining their activities through fundraising from grants and trusts (Unlock, 2010: 14, 28). Unlock characterise participating in service delivery under contract as akin to becoming an “instrument of the state” (Bath, 2011: 16) and emphasise that “the rhetoric of partnership in service delivery should not be confused with a relationship of equal partners” (Bath, 2011: 15). For Unlock, the contract relationship between the statutory agencies and PVOs is “purchaser/provider, master/slave” (Bath, 2011: 15). Unlock have a significant campaigning role and engage with statutory institutions on a non-economic basis. Unlock recently submitted their review of a draft leaflet for prisoners to the Parole Board, initiated a round table with the Home Office and made submissions to the review of the Criminal Records Regime (Unlock, 2010: 20).

It even remains possible to fundraise for advocacy work. Mills et al. (2011: 207) provide a relatively optimistic analysis of this area. They acknowledge the tension between voluntary organisations receiving government funding and maintaining organisational autonomy, but point out that “despite the lack of funding for such activities, service provision organisations have found time and space to engage in advocacy”. However, even this positive analysis overstates the *threat* to the campaigning roles of penal voluntary organisations. The Revolving Doors Agency work across England to change systems and improve services for people with multiple problems, including poor mental health, who are in contact with the CJS. They have recently established a new organisational model, giving a *greater focus to influencing policy*, and have obtained *significant* “new model funding” from grants and trusts to enable this work to be carried out alongside their service delivery activities (The Revolving Doors Agency, 2010: 11, also p. 7). To overlook counterexamples such as this has political impacts.

The Political Impacts of Reductionism

Corcoran (2011: 48) claims that the 'business' case for marketising criminal justice services commodifies voluntary expertise and “does the voluntary sector a disservice at many levels”. But, by mirroring the official conception of the PVS, commentators have also done the sector a disservice. This recent commentary has provided a highly significant contribution to the literature, defining the terrain of this topic and laying the foundations for further analysis. However, the focus on the market for criminal justice services has so far come at the expense of recognition and analysis of the agency and innovation that exists amongst certain voluntary organisations. Although the existence of these qualities must not be overstated, ignoring them provides an impoverished account of the PVS and works to denigrate those qualities. This article has made a preliminary exploration of a more nuanced and politically enabling model, using political economy as an analytical framework. This framework has been used to provide an introductory awareness of thus far underacknowledged dimensions of the PVS which extend beyond neoliberalism and beyond the economic. The discussion highlighted how the agency, innovation and heterogeneity found amongst PVOs can be used to pursue and sustain their organisational ideologies, which may not enable participation in the market in criminal justice services and may stand in opposition to neoliberal reforms. The key argument of this article is that there is an independence and autonomy within the PVS that has so far been unexplored. PVOs are not necessarily biddable agents of policy and although beyond the scope of this article, they can exercise their potential to influence policy.

The tendency to present neoliberal penal reforms as inexorable and to produce “grimly pessimistic” accounts of the 'criminal justice state' risks reinforcing the very situation that commentators purport to expose (Hart, 2002: 817; Zedner, 2002: 342). Determinedly pessimistic scholarship creates its own set of problems, as emphasising dystopic visions of crime control leads

scholars to overlook trends that point in a different direction (Zedner, 2002: 342, 355). Highlighting the vulnerability of the penal voluntary sector to neoliberal policy reforms therefore risks embedding and fortifying said vulnerability. Identifying the “dangers and harms implicit in the contemporary scheme of things” is undeniably a crucial task for commentators (Garland, 2001: 3). However, there is a simultaneous responsibility to consider the political impact and *representativeness* of the accounts produced. Maguire points out that “there is no certainty that the fears of pessimists will materialise. Whether they do or not depends to a considerable extent on the attitudes, actions and decisions of individuals across the system” (2012: 491). Yet this is one of very few acknowledgements of such contingencies in recent commentary. Again, this exploration of the PVS based on the principles of political economy acknowledges the potential for outcomes other than the co-option of the PVS to emerge.

Neoliberalism is important. The developing market in criminal justice services and the involvement of charities in this market must be discussed. As acknowledged previously, the PVS is not 'beyond' the effects of neoliberalism. However, uncritical acceptance of neoliberalism and associated penal expansionism as monolithic and inexorable forces is damaging and is likely to create a self-fulfilling prophecy. It is therefore important that theory can describe and envision alternative possibilities and countermovements to neoliberal penal reforms and penal expansionism. As such, theory and commentary must progress *beyond* the centrality of neoliberalism. This article has made a contribution to this task by offering a new approach to the PVS informed by political economy. Moving beyond the narrow view of PVOs as biddable instruments of neoliberal policy, this approach can account for PVOs who are ideologically opposed to neoliberal policy reforms. Without ignoring the impacts of neoliberalism upon the PVS, this approach can also include those who are outside the realm of economic engagement with the PVS and those who exercise their agency to pursue new organisational models and funding streams. The approach offered here is not

presented as a complete or conclusive theory, but is intended as a step in the right direction and a springboard for further work.

Rather than suggesting endlessly open possibilities and alternatives to neoliberal reform (Hart, 2002: 819), this article is a call for theory and analysis that can account for the diversity of responses elicited by neoliberal reforms and avoids economic determinism. Cultivating such theory and analysis rather than merely assuming and embedding the dominance of neoliberalism and continued penal expansionism not only provides more complete accounts, but will help to check the criminological propensity towards dystopia.

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Notes

1 Charitable accounts were accessed through the Charity Commission, using their website: <http://www.charitycommission.gov.uk/>

References

AFFECT (2012) About Us. Available at: <http://affect.org.uk/about-u/> (accessed 04/01/2013).

Apex Charitable Trust (2010) *Trustees' report and unaudited accounts for the year ended 31 March*

2010.

Action for Prisoners' Families (2010) *Directors' and trustees' reports and accounts for the year ended 31 March 2010*.

Bath, C. (2011) What lies at the heart of an effective relationship between the voluntary and community sector and government? In *Civil Dialogue: Ideas for Better Working between Government and Civil Society*. Report, Civil Exchange, pp. 12-17.

Benson, A. and Hedge, J. (2009) Criminal justice and the voluntary sector: a policy that does not compute. *Criminal Justice Matters* 77: 34–6.

Birth Companions (2010) *Trustees annual report and financial statements 31 March 2010*.

Cabinet Office (2010) *Modernising Commissioning: Increasing the role of charities, social enterprises, mutuals and cooperatives in public service delivery*. London: Cabinet Office.

Carmel, E. and Harlock, J. (2008) Instituting the “Third Sector” as a Governable Terrain: Partnership, Procurement and Performance in the UK. *Policy and Politics* 36 (2): 155–71.

Clifford, D., Geyne Rayme, F., and Mohan, J. (2010) How dependent is the third sector on public funding? Evidence from the National Survey of Third Sector Organisations, *TSRC Working Paper* 45, Southampton: Third Sector Research Centre.

Clinks (2011) *Clinks response to the Ministry of Justice's Green Paper: 'Breaking the Cycle:*

Effective Punishment, Rehabilitation and Sentencing of Offenders'. Available at:

<http://www.clinks.org/assets/files/PDFs/Clinks%20response%20to%20Breaking%20the%20Cycle.pdf> (accessed 04/01/2013).

Clinks (2010) *Accounts for the year ended 31 March 2010*.

Community Resettlement Support Project (2010) *Trustees Report and Annual Accounts 2009- 2010*.

Contact Cheshire Support Group (2010) *Report of the trustees and unaudited financial statements for the year ended 31 March 2010 (including Annual Report 2009-2010)*.

Contact Cheshire Support Group (2011) *Report of the trustees and unaudited financial statements for the year ended 31 March 2011*.

Concord Prison Trust (2010) *Report and Accounts for the year ended 31 December 2009*.

Corcoran, M. (2009). Bringing the penal voluntary sector to market. *Criminal Justice Matters*, 77(1), 32-33.

Corcoran, M. (2011) Dilemmas of institutionalization in the penal voluntary sector. *Critical Social Policy* 31 (1): 30–52.

Ellis Paine, A., Taylor, R., Alcock, P. (2012) Wherever there is money there is influence: exploring BIG's impact on the third sector, *TSRC Working Paper 75*, Birmingham: Third Sector Research Centre.

Evans, B. M. and Shields, J. (2002) *The Third Sector: Neo-Liberal Restructuring, Governance, and the Remaking of State-Civil Society Relationships*. In Dunn, C. (Ed.) *The Handbook of Canadian Public Administration*. Toronto: OUP

Faulkner, D. (2007) Prospects for Progress in Penal Reform. *Criminology & Criminal Justice* 7 (2): 135-152.

Feltham Community Chaplaincy Trust (2010) *Unaudited trustees' report and financial statements for the year ended 5 April 2010*.

Fine Cell Work (2010) *Trustees' report and unaudited accounts for the year ended 31 December 2010*.

Fox, C. and Albertson, K. (2011) Payment by results and social impact bonds in the criminal justice sector: New challenges for the concept of evidence-based policy? *Criminology and Criminal Justice* 11 (5): 395-413.

Garland, D. (1990) *Punishment and Modern Society: A Study in Social Theory*. Oxford: Clarendon Press.

Garland, D. (1996) The Limits of the Sovereign State: Strategies of Crime Control in Contemporary Society. *British Journal of Criminology* 36 (4): 445–71.

Garland, D. (2001) *The Culture of Control: Crime and Social Order in a Contemporary Society*.

Chicago: University of Chicago Press.

Garside, R. (2004) Who delivers and why it matters. *Safer Society* 21: 7–9.

Gojkovic, D., Mills, A. and Meek, R. (2011) Scoping the involvement of third sector organisations in the seven resettlement pathways for offenders, *TSRC Working Paper 57*, Southampton: Third Sector Research Centre.

Hart, G. (2002) Geography and development: development/s beyond neoliberalism? Power, culture, political economy. *Progress in Human Geography* 26 (2): 812-822.

Home Office (2007) *The Corston Report: A report by Baroness Jean Corston of a review of women with particular vulnerabilities in the Criminal Justice System*. Report, London: Home Office.

Ilcan, S. and Basok, T., (2004) Community government: voluntary agencies, social justice, and the responsabilization of citizens. *Citizenship Studies* 8 (2): 129–144.

INQUEST (2012) Support Us. Available at: <http://www.inquest.org.uk/support> (accessed 04/01/2013).

Kendall, J. and Deakin, N., (2010) Editorial: Political ideologies and the third sector. *Journal of Political Ideologies* 15 (3): 221-225.

Kendall, J. and Knapp, M.R.J., (1995). Boundaries, Definitions and Typologies: A Loose and Baggy Monster. In Davis Smith, J., Rochester, C. and Hedley, D. (Eds.). *An Introduction to the*

Voluntary Sector. London: Routledge.

Kendall, J. (2003) *The Voluntary Sector*. London: Routledge.

Langley House Trust (2011) *Annual report and financial statements for the year ended 31 March 2011*.

Maguire, M. (2012) Response 1: Big Society, the voluntary sector and the marketisation of criminal justice. *Criminology & Criminal Justice* 12 (5): 483-505.

Meek, R., Gojkovic, D. and Mills, A. (2010) The role of the third sector in work with offenders: The perceptions of criminal justice and third sector stakeholders, *TSRC Working Paper 34*, Birmingham: Third Sector Research Centre.

Mills, A., Meek, R. and Gojkovic, D. (2011) Exploring the relationship between the voluntary sector and the state in criminal justice. *Voluntary Sector Review*, 2: 193-211.

MoJ (2010) *Breaking the cycle: Effective punishment, rehabilitation and sentencing of offenders*, London: Ministry of Justice.

MoJ (2013) *Transforming Rehabilitation: A Strategy for Reform*, London: Ministry of Justice.

Morgan, R. (2012) Crime and Justice in the 'Big Society'. *Criminology and Criminal Justice*, 12: 463-481.

Mudge, S. (2008) What is neo-liberalism? *Socio-Economic Review*, 6: 703-731.

Nacro (2010) *Report and Financial Statements Year Ended 31st March 2010*.

NEF (2012) *Women's Community Services: A Wise Commission*, Available at: http://www.corstoncoalition.org.uk/wp-content/uploads/2012/12/A_Wise_Commission_webReady.pdf
(accessed 04/01/2013).

Neilson, A. (2009) A crisis of identity: NACRO's bid to run a prison and what it means for the voluntary sector. *Howard Journal of Criminal Justice* 48 (4): 401–10.

New Bridge Foundation (2010) *Annual Report 2010*.

Paxton, W. and Pearce, N. (2005) The voluntary sector and the state. In Paxton, W., Pearce, N., Unwin, J. and Molyneux, P. (Eds.) *The voluntary sector delivering public services*. York: Joseph Rowntree Foundation, pp. 3-31.

Prisoners' Advice Service (2010) *Financial statements 31 March 2010*.

Prisoners' Penfriends (no date). <http://www.prisonerspenfriends.org/> (accessed 04/01/2013).

Puddicombe, B., Corry, D., Fox, C., Albertson, K. (2012) Payment by results. *Criminal Justice Matters* 89 (1): 46- 48.

Reiner, R. (2012) Casino capital's crimes: political economy, crime, and criminal justice. In

Maguire, M., Morgan, R., Reiner, R., (Eds.) *The Oxford Handbook of Criminology*. Oxford: OUP, pp. 301-336.

Ryan, M. (2011) Counterblast: Understanding penal change: Towards the Big Society? *The Howard Journal of Criminal Justice* 50 (5): 516–520.

Serco (2012) Serco forms pioneering probation alliance with voluntary sector. Available at: http://www.serco.com/markets/homeaffairs/Copy_of_lowgrangerep.asp (accessed 04/01/2013).

Serco (2010) Serco signs contract for Belmarsh West prison valued at £415m. Available at: www.serco.com/media/pressreleases/2010/belmarsh.asp (accessed 07/06/2012).

Silvestri, A. (2009) *Partners or prisoners? Voluntary sector independence in the world of commissioning and contestability*. Report, London: Centre for Crime and Justice Studies.

Social Finance (2011) *Peterborough Social Impact Bond*. Available at: http://www.socialfinance.org.uk/sites/default/files/SF_Peterborough_SIB.pdf (accessed 03/01/2012).

St. Giles Trust (2010) *Financial statements for the year ended 31 March 2010*.

The Howard League for Penal Reform (2011) *Response to Breaking the Cycle*. London: Howard League

The Joseph Rank Trust (2012) *Collaboration or Competition? Cooperation or Contestability?* Report, available at: <http://theosthinktank.co.uk/research/theos-reports> (accessed 07/06/2012).

The Prison Advice and Care Trust (2011) *Report and financial statements for the year ended 31 March 2011*.

The Revolving Doors Agency (2010) *Trustees' annual report and financial statements for the year ended 31 March 2010*.

Travis, A., (2012) Serco wins first private probation contract. *The Guardian*, 13 July, 2012.

Unlock (2010) *Report of the trustees and financial statements for the year ended 31 March 2010*.

Unwin, J. and Molyneux, P. (2005) Beyond transfer to transformation. In Paxton, W., Pearce, N., Unwin, J. and Molyneux, P. (Eds.) *The voluntary sector delivering public services*. York: Joseph Rowntree Foundation, pp. 31-87.

Zedner, L. (2002) Dangers of Dystopia in Penal Policy. *Oxford Journal of Legal Studies* 22: 339–65.

Zedner, L. (2004) *Criminal Justice*. Oxford: OUP.