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The Penal Voluntary Sector

Philippa Tomczak



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Philippa Tomczak presents a detailed and nuanced account of the roles and effect of the charitable sector in prisons in England and Wales. In so doing, she develops a fresh approach to penal power that should reorient the field of study.

Mary Bosworth, *Professor of Criminology and Assistant Director of the Centre for Criminology, University of Oxford, UK*

This book challenges some of the orthodox claims that the voluntary sector has been captured by either states or markets. Using actor-network analysis, it argues that the responses of voluntary sector to decades of neo-liberalism and penal punitiveness are nuanced, fluid and complex. Philippa Tomczak makes a compelling, critical intervention in a rapidly evolving and exciting field of study. It is high on my reading list.

Mary Corcoran, *Senior Lecturer in Criminology, Keele University, UK, and editor of The Voluntary Sector and Criminal Justice (Palgrave Macmillan, 2016)*

In the past few decades we have seen the emergence of an increasingly complex, hybrid and privatized landscape of penal service delivery, with more and more elements of the voluntary sector being drawn into the new neoliberal marketised penal economy too. This book is a very valuable addition to the literature on the changing relationship between the voluntary sector and the state, raising important questions about the relationship, which organisations are involved, how it works, what effects there are on consumers, and what complexities and concerns there are in new relationship. The book is both insightful and timely and will be of interest to students and scholars of criminal justice, policy-makers and practitioners across the field.

Loraine Gelsthorpe, *Professor of Criminology and Criminal Justice, Deputy Director, Institute of Criminology, University of Cambridge, UK*

Tomczak's sophisticated, empirical exploration of the voluntary sector's involvement in that most involuntary of sectors, the UK's penal system, simply could not be more timely or more badly needed. It fills an enormous gap in the criminological literature while opening up dozens of new avenues for new research. A real path-breaker.

Shadd Maruna, *Professor of Criminology, University of Manchester, UK*

The Penal Voluntary Sector

The penal voluntary sector and the relationships between punishment and charity are more topical than ever before in countries around the world. In recent years in England and Wales, the sector has featured significantly in both policy rhetoric and academic commentary. Penal voluntary organisations are increasingly delivering prison and probation services under contract, and this role is set to expand. However, the diverse voluntary organisations which comprise the sector, their varied relationships with statutory agencies and the effects of such work remain very poorly understood.

This book provides a wide-ranging and rigorous examination of this policy-relevant but complex and little studied area. It explores what voluntary organisations are doing with prisoners and probationers, how they manage to undertake their work, and the effects of charitable work with prisoners and probationers. The author uses original empirical research and an innovative application of actor-network theory to enable a step change in our understanding of this increasingly significant sector, and develops the policy-centric accounts produced in the last decade to illustrate how voluntary organisations can mediate the experiences of imprisonment and probation at the micro and macro levels.

Demonstrating how the legacy of philanthropic work and neoliberal policy reforms over the past thirty years have created a complex three-tier penal voluntary sector of diverse organisations, this cutting-edge interdisciplinary text will be of interest to criminologists, sociologists of work and industry, and those engaged in the voluntary sector.

Philippa Tomczak is a Leverhulme Trust Early Career Fellow at the University of Sheffield's Centre for Criminological Research. She previously studied Criminology and Geography at the Universities of Oxford and Manchester. She is interested in punishment, particularly the regulation of prison suicide, the penal voluntary sector, and actor-network theory.

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This is perhaps unconventional, but I'd like to dedicate this book to everyone who is struggling with a project.

All too often publications, brilliant ideas and wide-ranging successes tumble out of people with apparent ease. This has rarely been the case for me.

I'm sure I often don't help myself, but I found writing this book and getting an academic job and doing my PhD really hard. I stuck at it, although sometimes only just. I hope that readers will think the results were worth it.

We only usually see the polished end products of people's efforts and this doesn't depict or even acknowledge the convoluted processes that sit behind every shiny end product. In a small way, this dedication represents the tangled and sometimes painful processes which lie behind achievement. Success is not linear – maybe giving up is.

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Abbreviations

ANT	Actor-network theory
MoJ	Ministry of Justice
NOMS	National Offender Management Service
Pact	Prison Advice and Care Trust
PbR	Payment by Results
POPS	Partners of Prisoners and Families Support Group

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1 The penal voluntary sector

1.1 Introduction

The penal voluntary sector and the relationships between punishment and charity are perhaps more topical than ever before. An assortment of countries around the world have seen significant restructuring of public social welfare services in recent decades, involving a general movement away from unified public services and towards the development of quasi-markets (Salamon, 2015; Considine, 2003; Wolch, 1990). Intermediate bodies that sit between the state and the market and have a social benefit mandate are heavily implicated in this restructuring, alongside private companies. I refer to these intermediate bodies as ‘voluntary organisations’.¹ Given this context of radical changes to public services, it is problematic and peculiar that partnerships between government and the voluntary sector have ‘largely escaped close scrutiny and serious public and policy attention’ (Salamon, 2015: 2149).

More specifically, in England and Wales the recent penal policy developments in *Transforming Rehabilitation: A Strategy for Reform* (Ministry of Justice/MoJ, 2013c) and *Breaking the Cycle* Green Paper (MoJ, 2010) suggest a further increasing role for voluntary organisations, or charities, in competitive penal service markets. Despite a flurry of academic commentary responding to these policies and the government’s ‘dramatically increased engagement’ with the voluntary sector as a contractual provider of penal services (Neilson, 2009: 408),² little is known about the penal voluntary sector. This is perhaps surprising, as charities have a ‘long and rich history’ of involvement in criminal justice (Mills *et al.*, 2012: 392; see also Neilson, 2009: 408) and are heavily implicated in the current operation of penal institutions in England and Wales (Martin, 2013; Neuberger, 2009). Indeed, the penal voluntary sector is considered so significant that ‘there can *hardly be a prison in the country* that could continue to work as it does if there was a large scale collapse of voluntary, community and social enterprise services for people in custody’ (Martin, 2013: no pagination, emphasis added). Although the voluntary sector is broadly underresearched by scholars from various disciplines (Considine, 2003), there is a particular dearth of voluntary sector research in punishment, in relation to studies in areas such as housing and social care (Corcoran, 2011: 33).

2 *The penal voluntary sector*

Due to this 'limited attention devoted to charitable organisations' by scholars (Armstrong, 2002: 345), understandings of the penal voluntary sector are 'lacking' (Mills *et al.*, 2011: 195). The sector thus remains 'a descriptive rather than theoretically rigorous concept or empirically defined entity' (Corcoran, 2011: 33; see also Mills *et al.*, 2011; Armstrong, 2002). This text addresses this significant gap in knowledge by *conceptualising the penal voluntary sector in England and Wales*. It demonstrates that charitable involvement in criminal justice is more complicated, troubling and full of potential than scholars have opined thus far. It explores the heterogeneity of penal voluntary organisations, considering the what, how and so what questions. Namely, it explores *what* voluntary organisations are doing with prisoners and probationers and *how* voluntary organisations manage to undertake this work, and questions the *effects* of charitable work on prisoners and probationers. The resultant conceptualisation of charitable involvement in criminal justice looks both within and beyond the penal service market and contains multi-level analyses of charities that are fully state funded, partly state funded and not state funded.

This text also offers a detailed and innovative application of actor-network theory (ANT) to a criminological subject. Although this account of the penal voluntary sector was underpinned by ANT, it can still be appreciated by readers who do not wish to engage with ANT, who should feel free to skim or skip ANT sections. However, this text does set out an innovative theoretical and methodological approach to structured research that was inspired by ANT and has many further applications for criminology, penology and beyond. Although I do not claim to provide a programmatic or comprehensive 'ANT approach', I anticipate that the approach I have assembled and applied here will be useful for future research involving multiple partner organisations in the increasingly complex, hybrid and privatised landscape of penal service delivery (such as in restorative justice programmes), and for studying other parts of the voluntary sector at policy and practice level.

This text is situated in the specific jurisdiction of England and Wales, but is highly relevant to studies of the penal voluntary sector in other jurisdictions. Indeed, I hope to stimulate a rich tradition of penal voluntary sector research. Section 1.4 below explores the importance of the voluntary sector in a number of other jurisdictions, and points out important *variations* which affect the applicability of this research to other jurisdictions. I now define and locate the penal voluntary sector.

1.2 Locating the penal voluntary sector

The voluntary sector is comprised of diverse voluntary organisations. In their simplest form, voluntary organisations are located between the market and the state (Considine, 2003; Salamon and Anheier, 1992). Voluntary organisations are formally constituted organisations outside the public sector, whose main distinctive feature is that they do not make profits for shareholders (Maguire, 2012: 493; Corcoran, 2009: 32). The voluntary sector in general contains a 'bewildering

variety of organisational forms, activities, motivations and ideologies' (Kendall and Knapp, 1995: 66) and is therefore notoriously difficult to define (Paxton and Pearce, 2005; Martens, 2002). It has even been characterised as 'a loose and baggy monster' for which 'no single "correct" definition ... can or should be uniquely applied in all circumstances' (Kendall and Knapp, 1995: 66).

Part of the 'bagginess' of the voluntary sector results from its position in between and overlapping with the other three sectors of welfare provision, i.e. the public, private and informal sectors. The essential characteristics of the voluntary sector are therefore not always easy to discern (Alcock and Scott, 2007: 85). For example, the penal voluntary sector in England and Wales overlaps with the private/commercial sector of service provision because some voluntary organisations deliver penal services under contract. As such, there are similarities between the activities of companies such as Serco and G4S, and charities such as Nacro, which deliver penal services under contract (see also Neilson, 2009).

In England and Wales, the *penal* voluntary sector is a specialist set of voluntary organisations within the general voluntary sector and is comprised of 'charitable and self-defined voluntary agencies working with prisoners and offenders in prison- and community-based programmes' (Corcoran, 2011: 33). For example, Fine Cell Work trains and pays prisoners to do high quality, creative needlework in their cells and workshops, to foster hope, discipline and employability (Fine Cell Work, 2014: 2) and the Apex Trust helps people with a criminal record to obtain employment, training, education or voluntary work by providing them with the skills they need to access the labour market, working to break down the barriers to their employment and guiding them on the positive disclosure of their conviction(s) (Apex Trust, 2015: 6).

I will add that penal voluntary organisations *also* work with prisoners' families, with victims of crime and in policy advocacy programmes. For example, Partners of Prisoners and Families Support Group (POPS) provide a variety of support and assistance services for anyone who has a link with someone in prison, enabling families to cope with the stress of arrest, sentencing, imprisonment and release (POPS, 2015: 5). Remedi provide restorative justice services directed towards mediation and reconciliation between victims of crime and (ex-)offenders, and work with groups such as youth offending teams and Police and Crime Commissioners (Remedi, 2015: 4–5). The Prison Reform Trust aims to create a 'just, humane and effective penal system' by 'influencing Parliament, Government and officials towards reform' (Prison Reform Trust, 2015: 4). Their key campaigns centre around reducing unnecessary imprisonment and promoting community solutions to crime, and improving treatment and conditions for prisoners and their families (Prison Reform Trust, 2015: 4). I therefore suggest that Corcoran's definition (2011: 33) should be widened to describe penal voluntary organisations as *charitable and self-defined voluntary agencies working with prisoners, (ex-) offenders, their families and their victims in prison, community and policy advocacy programmes*.

The scale of charitable involvement in criminal justice is difficult to establish, as little formal data exist in this area (Meek *et al.*, 2013: 340; see also Corcoran

and Hucklesby, 2013; Gojkovic *et al.*, 2011; Meek *et al.*, 2010). Some commentators suggest that the sector plays a numerically significant role. In 2005 it was estimated that 1,500 voluntary organisations were working with prisons and probation (Meek *et al.*, 2010: 3), and faith-based organisations alone provided 7,000 volunteers in this area (Neuberger, 2009: 4).

The boundaries of the penal voluntary sector are blurred, but for this research I limited the sector to formally constituted voluntary organisations which are registered as charitable organisations with the Charity Commission³ and have a principal focus on (ex-)offenders or their families in England and Wales. This excluded grassroots and informal organisations, those with a different geographical focus and those who work with offenders and/or their families amongst multiple groups of clients.⁴ I have conceptualised the penal voluntary sector as a distinct entity which can be differentiated from the formal criminal justice system and volunteers within statutory criminal justice agencies, such as Special Constables and magistrates. However, this standpoint does not negate the long history of interactions and the enduring blurred boundaries between voluntary/philanthropic⁵ bodies and the formal criminal justice system (see Mills *et al.*, 2011; Silvestri, 2009; Smith *et al.*, 1993; McWilliams, 1983; Ignatieff, 1978; Foucault, 1977). Furthermore, the penal voluntary sector is acknowledged to form part of a broader definition of the criminal justice system, as part of the 'wider cast' of non-statutory actors that play a part in the operation of punishment. Examples of this 'wider cast' include private security agents who work as bouncers and guards, private companies that provide prisoner escorts, and the aforementioned 'statutory volunteers' such as Special Constables (Zedner, 2004: 125–126; see also Jones and Newburn, 2002).

The formal criminal justice system is comprised of a number of agencies or institutions such as the police and the Crown Prosecution Service. These agencies operate at different scales. The Ministry of Justice (MoJ) is the government department with overall responsibility for criminal justice in England and Wales (Davies *et al.*, 2005: 4). Within the MoJ, the National Offender Management Service (NOMS) is responsible for managing offenders from their sentencing to their resettlement in the community (Davies *et al.*, 2005: 4). When my empirical research was undertaken in 2012, NOMS consisted of the Prison and Probation Services, but following the *Transforming Rehabilitation* reforms to probation (MoJ, 2013c), NOMS now oversees probation delivery through the National Probation Service and privatised Community Rehabilitation Companies. Imprisonment and probation, as delivered by the Prison Service and what was the Probation Service, were the focus of this research, but voluntary organisations do interact with other criminal justice agencies. For example, Citizens Advice is a charitable organisation that mobilises thousands of volunteers to staff the Witness Service operating in every Crown and Magistrates' Court (see Zedner, 2004). The next section explores recent policy developments involving the penal voluntary sector and the academic analysis of these.

1.3 Criminal justice and neoliberalism

Recent policy developments suggest an increasing role for charities in the delivery of penal services under contract in England and Wales (e.g. MoJ, 2013b, 2013c, 2011b, 2010). Neoliberal processes of marketising penal service delivery are related to the privatisation of public services that began in the 1980s, and continued under successive governments (Maguire, 2012; Morgan, 2012; Panchamia, 2012; Ryan, 2011; Corcoran, 2009). Voluntary organisations have a long history of involvement with criminal justice as part of the philanthropic tradition,⁶ but have directly featured in neoliberal penal policy rhetoric since 1991 (Corcoran, 2011). Neoliberalism involves privatisation policies aiming to 'desacralise' institutions which previously enjoyed protection from private market competition, e.g. criminal justice and health care (Mudge, 2008: 703–704). The key tenet of neoliberalism is that privatising public services through competitive commissioning markets should stimulate cost-efficiency and save public money (Corcoran, 2009: 33; Garland, 1996: 453).

Public services were privatised by creating competitive service delivery markets under the policies of the Conservative Thatcher government in the 1980s and 1990s (Corcoran, 2011: 36; Ryan, 2011: 517). Thatcher's appetite for privatisation was based on the contested assumption that private sector service provision would be more efficient and cost-effective and catalyse system-wide improvements (Panchamia, 2012). Under the provisions of the Criminal Justice Act 1991, public prisons could be transferred to private sector management, and Probation Boards (which were then in charge of probation areas) were required to commission voluntary and private sector organisations to provide drug programmes (Corcoran, 2011: 36–37; Corcoran, 2009: 33). This Act saw the separation of the purchaser and provider role, the growth of contractual and semi-contractual arrangements and the creation of a quasi-market in punishment (Lacey, 1994), thus unsettling the state monopoly on the allocation and delivery of punishment which had been established about 1877 (Maguire, 2012: 484; Ryan, 2011: 517).

New Labour then 'substantially endorsed' the Conservatives' changes and continued the marketisation of public services (Ryan, 2011: 518; see also Maguire, 2012; Morgan, 2012; Corcoran, 2011). The Offender Management Act 2007 stressed the role of market discipline in improving performance, and enabled some additional responsibilities traditionally associated with probation to be taken on by private and voluntary organisations (Whitehead, 2015: 61; Corcoran, 2011: 37; Mills *et al.*, 2011: 195; Meek *et al.*, 2010: 4). The MoJ also allocated £12 million of short term contract funding to voluntary organisations for the provision of diversionary community-based support to women in response to the 2007 Corston Report⁷ (NEF, 2012: 7; see also Annison and Brayford, 2015; Mills *et al.*, 2012, 2011; Home Office, 2007). This MoJ funding was short-term and in 2010 heavy MoJ budget cuts led to the establishment of the £2 million Women's Diversionary Fund, which sustained some services (NEF, 2012; Prison Reform Trust, 2011a).

The *Breaking the Cycle* Green Paper (MoJ, 2010) indicated that the then coalition government was set to further roll back the state and ‘continue along Thatcher’s radical path’ (Ryan, 2011: 518; see also Garside and Mills, 2012). This Green Paper stated the government’s ‘clear commitment to decentralisation’, justifying this stance by emphasising the failures of the ‘top-down approach’ to penal service delivery (MoJ, 2010: 6, 8). This strategy stressed the role for voluntary and private organisations in criminal justice alongside the public sector, thus combining the political ideal of a smaller regulatory state with the material imperative for fiscal austerity in light of the record UK public deficit (Ryan, 2011: 518). Subsequently, *Transforming Rehabilitation: A Strategy for Reform* emphasised that the market in penal services was to be further opened up to a range of providers from the public, private and voluntary sectors (MoJ, 2013c). This report also stressed the role of payment by results (PbR) financial incentives for service providers in improving competition, performance and effectiveness, and privatised probation supervision for medium and low risk (ex-)offenders by founding Community Rehabilitation Companies (MoJ, 2013c).

These neoliberal reforms of the last three decades have created a mixed economy of penal service provision, in which private and voluntary sector providers operate alongside the public sector to deliver penal services under contract (Cavadino *et al.*, 2013: 177; Panchamia, 2012: 1; Corcoran, 2011: 37; Ryan, 2011: 517; Corcoran, 2009: 33; Garland, 2001: 98). Various aspects of the penal system in England and Wales are now privatised, spanning a spectrum of activities from outsourcing specific regime elements (e.g. contracting-out prison catering services to private companies), to the wholesale transfer of responsibility for the provision and daily running of penal institutions to private contractors (Cavadino *et al.*, 2013: 176; Panchamia, 2012: 6; Zedner, 2004: 276). HMP Wolds opened in 1992 and was the first privately run prison in the UK (Panchamia, 2012; Ryan, 2011). At the time of writing in 2016, there were fourteen private prisons managed under contract by private companies such as Serco, Sodexo Justice Services and G4S Justice Services.⁸ The first private probation contract was won by Serco in 2012 and involved supervising probationers on community payback sentences in London (Panchamia, 2012; Travis, 2012; Serco, 2012).

No penal voluntary organisation had taken wholesale responsibility for the construction or management of a penal institution at the time of writing, but charities were directly involved in contracted-out service delivery in a variety of ways. Serco, in ‘alliance’ with the charities Catch 22 and Turning Point, won a £415 million contract in 2010 to construct the new prison at Belmarsh West and operate it for 26.5 years (Panchamia, 2012; Serco, 2010). This was the first UK prison contract awarded to an alliance of the private and voluntary sectors, with the charities providing rehabilitation and resettlement services for prisoners (Serco, 2010). Whether charities in such consortia are equal partners to their private sector counterparts, or junior partners who are essentially ‘bid candy’ is, however, debatable (NPC, 2015; Maguire, 2012).