

# Bringing the penal voluntary sector to market

Mary Corcoran explores the effects of increased marketisation on the voluntary sector.

At a time when the fallibility of markets is uppermost in people's minds, it is worthwhile reviewing how the entrenchment of market thinking in our political culture has won over sections of the penal voluntary sector. This is not unexpected, for, despite the convention that the voluntary sector is separate from markets and states, its exposure over time to the magnetic pull of public funding and partnerships with business has made it susceptible to economic turbulence and political trends.

In legal and political terms, the label 'voluntary sector' has customarily applied to organisations that are overseen by an unpaid board of trustees and are mainly staffed by volunteers. They have generally been understood as agencies that do not make profits for investors, and are separate from political parties or governmental bodies. Historically, these boundaries have been fluid, but over recent decades, non-profit groups working with offenders, victims and communities have been drawn in increasing numbers into greater proximity with both business and government.

Similarly, the Labour government has vested the voluntary sector with political significance as an intermediary between central government and the 'community' in addressing generalised fears of crime in terms that chime with its populist crime reduction agendas. *The compact on relations between government and the voluntary and community sector* (Compact, 1998), which sets out undertakings relating to funding, consultation and status,

further underscores a sense of mutual interdependence and co-operation between them.

Three decades of privatisation, deregulation and competitive tendering have also encouraged the emergence of philanthropic syndicates comprising statutory, non-profit and profit-making partnerships competing to provide services to prisons and probation trusts. In 2008, the involvement of NACRO and Rainer Crime Concern in consortiums tendering to operate private sector prisons gave rise to concerns that charities were being drawn into borderline and contentious roles.

Of course, it is incorrect to speak of 'the voluntary sector' as a unitary entity, given the diversity of organisations' incomes, sizes, membership, aims and methods. But, as successive consultations and ministerial reports make clear, despite inclusive political language about the value of the sector's role as the critical conscience of public policy, the de facto, official conception of the voluntary sector is that of biddable service deliverers.

While these developments do not necessarily make the principles of a distinct and self-determined voluntary sector redundant, they illustrate the conditional nature of its funding and composition relative to the roles of markets and political ideology.

## Institutionalised inequality

After over a decade in the policy mainstream, many non-profits still struggle with definitional quandaries as to their roles, their status as partners or subsidiaries to funders,

as well as with core assumptions of contestability, competition and the potentially divisive aspects of their public roles.

Jennifer Wolch's seminal *The shadow state* (1990) anticipated the attrition in power relations between non-profits and state funders. She identified several dimensions to the 'dynamic of dependency' that such partnerships generated. Firstly, she found that state funding influenced reactive planning within voluntary groups in response to government-defined goals. This tended to counteract government's other goals of empowering groups to plan proactively and decide on their priorities and methods. Secondly, contracts and grants were increasingly accompanied by demands for rigid, quantitatively measured approaches to planning, evaluation and monitoring, to the detriment of developing more suitable methods for evaluating their achievements. Thirdly, Wolch warned that groups that were unable to meet expanded demands would become marginal to policy making and funding programmes. One effect would be to restrain advocacy or activism as groups became concerned about jeopardising funding or less tangibly but equally importantly, losing 'credibility' with funders. Newly-formed and 'niche' groups were particularly susceptible to these influences. Finally, Wolch argued that cumulative changes in individual organisations would bring about structural effects in the sector as a whole, leading to standardisation in practices and inhibiting innovation.

The implications for voluntary organisations working in criminal justice, for example, are that unfolding priorities in crime and offender management policies tend to overrule government's equally well-intended policies for championing voluntarism or strengthening civil society. As such, the greater costs and responsibilities borne by service providers can outweigh the benefits and incentives of capacity building or securing contracts, and the risk is exponentially greater for smaller and specialist organisations working in marginalised communities. Similar

findings have emerged from academic research (Kendall, 2003) and Audit Commission (2007) reports which conclude that compacts and developmental initiatives have done little to erode growing structural inequalities intra-sectorally, and between non-profits and statutory funders.

### Penal marketisation

The contemporary, instrumental construction of the voluntary sector must be seen in the context of broader political and economic choices exercised by governments since the 1980s. These have been not only aimed at transforming civil society and criminal justice, but altering public services from state monopolies to mixed service economies. Over the past 30 years, penal reforms have also been based on neo-liberal assumptions, with all the rhetoric of the superior efficiency of markets in distributing social goods, the role of competition in driving up standards and the discrediting of public ownership and control in favour of privatisation.

Neo-liberal crime policy is also deeply implicated in remoralising and responsabilising errant individuals and groups. Local crime reduction partnerships thus revolve around making them address their lawbreaking while supposedly empowering favoured sections of the community and voluntary sector to combat anti-social behaviour. Several aspects of the market revolution have influenced the fundamentals of offender management as well as shaped models of state-voluntary sector partnerships in criminal justice.

Firstly, prisons and probation have been structurally altered to allow for a greater role for market influences in their function and organisational form. The trend towards outsourcing commenced in 1991, when compulsory competitive tendering and privatisation was introduced in the prisons and probation services, and continued up to the Offender Management Act (2007), which opened up the market for service providers from voluntary, commercial and statutory providers on an equal commercial footing.

Secondly, criminal justice agencies have been destabilised by the restless re-engineering of their structures, starting with the acquisition by the prison service of executive agency status in 1993, and the restructuring of the probation service twice this decade (2001 and 2007). The creation of the National Offender Management Service (NOMS) in 2004 displaced the previous institutional division of labour and power relations between those services. NOMS has subsequently been re-organised, leading the Commons Public Accounts Committee to question its functionality in February 2009.

A central tenet of market fundamentalism entails recasting the state's role from that of direct provider to procurer and overseer of service markets. In this vein, the functions of NOMS and its new regional subsidiaries, the Directors of Offender Management, are concerned with 'steering', 'enabling', 'commissioning' and 'co-ordinating' the work of outsourced providers. Correspondingly, public accountability is watered down to narrow concerns with quality control and customer satisfaction, which are measured through standardised evaluative methods for monitoring 'productivity' and 'outputs'.

Meanwhile, the moral compact with the state has turned into a form of managerialist bondage as voluntary bodies, increasingly dependent on public service contracts, submit as part of the bargain to predetermined and ill-suited performance targets and efficiency audits. To meet these standards, government has offered voluntary organisations capacity-building support to upgrade their capability to bid for, and deliver, services. In response, sections of what is now called the 'third sector' endorse strategies for embracing the social enterprise culture, modernising its practices and enhancing its professional status, whilst others caution against the dangers of undermining the sector's traditions of voluntarism and political autonomy.

Finally, neo-liberalism has inculcated a market morality that

encourages a wide variety of behavioural adaptations to competition and performance targets. These range from conscious or unconscious 'gaming' strategies on the part of recipients of state funding to subtler, but nonetheless systematic, forms of 'mission drift' as organisations compromise original objectives and values in order to pursue new clients, revenue streams or fundable activities.

The impacts of marketisation and managerialism are not limited to altering the style of organisational behaviour in voluntary sector organisations. They represent qualitative changes to the nature of their relationships with partner agencies, workers, funders, service users and the public at large. Essentially, NOMS' complicated partnership model typifies the late modern political preoccupation with *means* of delivery over human ends. Policy has largely left aside any substantial or ethical considerations of the consequences of marketising punishment. Rather, market hegemony has normalised expectations that penal responses to offending, involving non-profit and private actors, represents the best collective option for supporting people caught up in the criminal system. The development of progressive alternatives will firstly need to confront the market route to penal 'reform'. ■

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