

The Provision of Public Education within the NSW Correctional System

by

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Abstract: In this paper the author will explore the role of the NSW Teachers Federation and the Corrective Services Teachers Association as both a professional and industrial organisation in supporting the provision of public education within the NSW Correctional system through encouraging teacher activism: which supports strong foundations for learning and development: engagement with theoretical issues; campaigning with a long term historical overview.

A place in corrections: CSTA

“Following the election of office bearers, Kevin Finnerty took the chair and opened the first meeting of the Corrective Services Teachers Association. Kevin detailed the long history of the struggle to have the role of education in Corrective Services acknowledged. Kevin encouraged members to become active and encourage others to use the newly formed Association to change conditions and effect improvements (Minutes CSTA 26/7/86).”

The Correctives Services Teachers Association (CSTA) was formed as an association within the New South Wales Teachers Federation in July 1986. Up until that time Federation members working within Correctives Services had been allocated to the Officers Consultants and Advisers Association. From around 1949 until the mid-seventies Education Officers had been seconded from the Department of Education to work within prisons. By the time the CSTA was formed most educators working with New South Wales Correctional Centres were employed directly by the Department of Corrective Services.

The Constitution of the Corrective Services Teachers Association states that the objectives of the Association are:

- “2.1 To speak with authority on all matters affecting its members, and to protect the welfare of its members.
- 2.2 To further the interests of education.
- 2.3 To provide for the holding of conferences for the discussion of questions of educational and industrial concern.

2.4 To initiate and oversee schemes for the advancement of the industrial and professional status of members.

2.5 To publish matters of interest to members.

2.6 To promote the objectives of the NSW Teachers Federation.”

The formation of the Corrective Services Teachers Association had evolved from a long history of activism by members working in the correctional system to improve the status of education for inmates and working conditions for members. On September 22, 1975 members went on strike after the Department of Corrective Services announced that all teachers on secondment from the Department of Education would be terminated. Corrective Services intended to create positions called Program Officers within the Department, which would have no requirement for professional educational qualifications. The Assistant Commissioner of Corrective Services Lindsay was quoted at the time as saying: “They could be social workers or teachers or wharfies. If teachers were given the positions they would be directed not to do any teaching”(Woods 1975: 327).

As a result of the active commitment of members a picket was placed on Long Bay Correctional Complex by the five members employed there. Their vigil drew the attention of the news media in Sydney with the result that their action was broadcast on the nightly news and received major attention in the daily metropolitan newspapers. Prior to this action occurring in June 1975 the Federation had made an application for an Award for members working in correctional centres. This was to have been a full work value case aimed at improving pay and conditions. Staffing was the greatest area of grievance considering “the small number to service the needs of over three and a half thousand prisoners in New South Wales penal institutions”(ibid: 327). By announcing a restructure that would terminate the role in Corrective Services of those on secondment the Department ensured that the Award application before the Industrial Relations Commission at the time would fail. Justice Macken on September 18, 1975 brought down a decision in the Industrial Relations Commission in which he declined to make an Award in view of the proposed restructuring. This was in spite of sixteen days of hearings and on site inspections.

Ultimately most of those teachers on secondment from the Department of Education were offered employment within Corrective Services as Programs Officers. When these new positions were created within Corrections the classification was linked to that of Senior Education Officers and Education Officers from the Department of School Education. Eventually, members lobbied for the term of Program Officer to be dropped and for staff to be recognised by their official classification of Senior Education Officer or Education Officer thus reflecting their professional status.

This history forged the creation of the Corrective Services Teachers Association within the Federation with broad objectives to improve the delivery of education to inmates, the professional status of educators and the “lot” of teachers.

During the late 1980's members such as Kevin Finnerty were also active in other groups such as the Prisoner Education National Network (PENN). He believed that educators working in Corrections should be active in other organisations and forums to overcome the isolation experienced in working in a total institution such as a prison. He observed at that time that:

“The negative, sensational and violent aspects are widely reported and because of this there are few Australians without a strong view as to what purpose prisons should serve and how inmates should be treated. Many in the community are willing to accept that “walk-in, walk-out” prisons are the norm; that inmates enjoy superior accommodation and have unlimited supplies of drugs; and that those involved in the education of inmates are misguided do-gooders, easily duped by manipulative inmates”(Finnerty 1989: 4).

During the late 1980's the Correctional system in New South Wales was riven with riots due to the policies of the Department under the leadership of the then Minister Michael Yabsley. Those riots were precipitated by restrictions on the amount of property inmates were able to have in their cells, and the belief that imprisonment was not hard enough. A slogan from the time was “every prison a factory, every prisoner a worker.” Work in prison industries was accorded a far greater priority than participation in education programs.

With the delivery of education programs under threat, members of the Corrective Services Teachers Association held a pie stall outside the Head Office of the Department in Haymarket, to raise money for educational provision to inmates. This was a figurative pie stall. Members carried out their protest action by distributing leaflets that showed a pie chart of the Department's distribution of funding. As can be imagined the slice allocated to education was minuscule in comparison to other Departmental programs. As a result of this action additional funding was provided for education programs. From the early 1990's the provision of educational programs was oriented by the Departmental drive to give primacy to prison industries. Thus, for example, art programs were renamed as vocational arts programs. Literacy and numeracy programs received additional funding due to the United Nations International Year of Literacy in 1990. The notion that inmates had poor skills in literacy and numeracy was a need, which appeared to be easily understood by politicians and senior officers of the Department. Consequently, apart from educational programmes being seen to service prison industries educators keyed in to notions of literacy and numeracy in the construction of their courses, thus for example Vocational Arts programmes emphasised visual literacy and an articulation to more formal programmes. Other courses developed at this time included a Legal Literacy/Law Library programme, which emphasised development of literacy skills within the context of legal studies and inmates own case needs.

In September 1994 the Federation after arduous negotiations with the Department finalised an Enterprise Agreement which improved salaries and conditions for members. During these negotiations the Department threatened to get rid of all education staff. The Enterprise Agreement was noteworthy because for the first time it placed obligations upon the Department in terms of program delivery to inmates. For example, the provision of programs and services to inmates was to be in the form of accredited training equivalent to that available in the community and that standard was to be maintained by the employment of professional educators within the correctional system.

With the implementation of the Enterprise Agreement, a Registered Training Organisation was created within the Department called the Adult Education & Vocational Training Institute (AEVTI). All education staff such as senior education officers, education officers and casual teachers employed by the Department became the staff of AEVTI. Those locations within Correctional Centres which both inmates and staff referred to as 'Education' or sometimes more affectionately as 'The Edumacation', became known as AEVTI campuses. Inmates received writing pads and bags emblazoned with the AEVTI logo. A Commissioner was noted to observe that many letters of complaint were written on paper with the AEVTI logo and drew the erroneous conclusion that this was all inmates did in literacy classes.

As a result of the creation of AEVTI all courses delivered to inmates within the Department for the first time became accredited within curriculum frameworks such as the Certificate of General Education for Adults. Prior to this time courses in which inmates participated carried no accreditation. With this new development inmates received nationally recognised qualifications, which also provided learning pathways into external institution such as TAFE and universities. Inmate participation in courses was also documented in education files which allowed for inmate progress to be continued across the system when transferred from centre to centre, and also provided accurate documentation for reporting to other committees such as Program Review Committees, Parole Board, Serious Offenders Review Council, etc.

Implementation of accredited curriculum focused the effort of education staff in developing courses which integrated a range of skills in reading and writing, numeracy, communications and Mayer Competencies that were customised to inmates needs and also adopted best practice principles in adult education. Recent examples of these kinds of courses include Men in Society, Ethics and Responsibilities to Others, Living in the Community (pre-release skills). Areas such as Art, Pottery and Music were able to be taught as stand alone subjects without having to adopt the rhetoric of vocationalism in servicing prison industry needs. It could be argued that between 1994 and 1998 the provision of education to inmates within Corrective Services had moved closer towards the broad principles enunciated in the recommendations of the Committee of Ministers of the Council of Europe on Prison Education which envisaged not only vocational training, but also creative and cultural activities, physical education and sports and social education. This broad vision of inmate education was reflected in the NSW legislative regulations concerning inmate education and vocational training.

With the establishment of AEVTI an easily recognisable education and training provider for inmates and staff was developed, which also served to provide education staff with an identity within the Department and fostered *esprit de corp*. Other significant achievements campaigned for by the Corrective Services Teachers Association provided for in the Enterprise Agreement were the provision of professional development for education staff including casual teachers, and sick leave for casual teachers after a qualifying period of service.

In 1996 the Federation negotiated a Consent Award with the Department which introduced for the first time into Corrective Services permanent teaching positions with appropriate conditions for leave. This in a sense was the realisation of a campaign that started in 1975 when Education Officers went on strike and picketed the Long Bay Correctional Complex.

The 1996 Consent Award also provided for pro rata sick leave for casual teachers. A complementary Letter of Understanding scheduled in the Industrial Relations Commission gave undertakings concerning the provision of programs to inmates, and other matters such as investigations to develop a post graduate course in Correctional Education at a major higher education institute. It is interesting to note that in recent years whilst there has been a massive growth of Forensic Psychology programs at a number of major universities, the objective of providing for post graduate studies in Correctional Education has yet to be achieved.

It has been argued that this could be done relatively easily through the development of electives on correctional education (Barron 1989: 25), as well as course offerings in criminology, criminal law, forensic psychiatry, etc. A number of bodies, such as the Institute of Criminology at the University of Sydney, for example, would have the capacity to deliver electives in such programs. One imagines that such a post graduate undertaking could be established as an interdisciplinary program between a number of faculties at such a university leading to post graduate diplomas, masters degrees and even doctorates.

During the most recent Salaries & Status Campaign within NSW the claim for wage increases made by the Federation against Government in this State was for all its members across a number of sectors such as schools, TAFE, AMES and Corrective Services. Members in Corrective Services participated in this campaign taking industrial action along with their colleagues from other sectors. It is worth observing from comments of congratulation made to the author by prison officers concerning the industrial action taken by education staff in correctional centres that their action was well supported and respected. The Federation is currently negotiating a new Consent Award with the Department.

The Corrective Services Teachers Association has been fundamental in producing change within Corrective Services due to the activism of members both on industrial and professional issues. The Association is broad based with members in every NSW Correctional Centre and meets regularly. The Teachers Federation has annually funded campaign courses for members which usually coincides with the Annual General Meeting allowing representation from country areas. The Association has elected representatives on the Teachers Federation Council and elected delegates to the Federation Annual Conference.

The Criminogenic Needs Issue

“Federation opposes the use of “criminogenic needs” models based on pre-dispositional accounts of inmate behaviour in the allocation of funding resources for program delivery, and supports a broad opportunity model which is based on access and equity”(NSW Teachers Federation Annual Conference Decisions 2001).

During 1998 the Federation and the Department became involved in bitter industrial disputation over attempts to remove professional control by educators over decision making in the allocation of courses for inmates and budget control. This was precipitated by a radical shift in the ethos and mission statement of the Department to an ideological position determined by the adoption of the criminogenic needs model in the allocation of resources for programs to inmates with an emphasis on psychological programmes. This model, if fully implemented, would limit and marginalise the role of AEVTI in providing courses to inmates as a service provider for literacy and numeracy to industry and psychological programmes. Other courses providing developing the cultural and creative skills of inmates were to be eliminated. The immediate effect of the introduction of this model was to produce a high level of divisive argument in Correctional Centres between AEVTI staff and other service providers such as psychologists, welfare workers, drug and alcohol workers, etc. who saw an opportunity to gain funds for cognitive projects by the elimination of Art, Pottery, Music etc. The Federation has consistently argued that if these types of projects are to be implemented it should not be at the expense of existing programmes but be provided for through the allocation of greater funding.

As a result of this disputation an agreed process was developed which respected the function and professional decision making of education staff and resulted in liaison between various staff within Correctional Centres. It was also agreed to conduct a review of education and vocational training within Correctional Centres which would have an independent chair: this became known as the Gonzi Review. Submissions were received from a variety of sources including activists working in Correctional Centres. The review committee was comprised of Departmental representatives as well as those from the Corrective Services Teachers Association and a representative of the TAFE Teachers Association. It is interesting to note that a Senate inquiry into education and vocational training in correctional settings had made a report in 1996 after taking evidence and visiting Correctional Centres in most States including NSW. The recommendations from that inquiry have largely been unimplemented.

During the Gonzi Review the Department made numerous submissions, the intention of which was to severely limit the function of education. The Department proposed to broadly implement the criminogenic needs model which would have also severely limited the capacity of inmates to participate in programmes, unless that participation had been approved by a Case Management Team that had diagnosed the cause of

the inmates underlying criminal behaviour. This type of proposition has been described by Duguid(1998: 31-39) from his experience in Canada as the replacement of an opportunities model in adult education where inmates are assumed to develop responsibility for making decisions in regard to their educational development, to a medical model in which inmates are determined through a criminogenic needs model to have predispositions towards committing crime.

The Federation opposed the introduction of this model during the Gonzi Review as it is highly controversial, in contradiction with recommendations on prison education by the Council of Europe and is conceptually flawed. The final report of the Gonzi Review made no reference to the criminogenic needs model, nor did it recommend its implementation.

The criminogenic needs model is essentially derived from the work of Ross & Fabiano(1985, 1995) and Andrews & Bonta(1994) in Canada. These authors argue for psychological programmes which address criminogenic thinking, needs and risk on the basis of cognitive behavioural research. The thesis of these authors is that offending behaviour can be addressed through specific cognitive programmes, which develop reasoning and thinking skills. In making their case these authors adopt a radical position in relation to other academic disciplines in their interpretation of crime and their vision for rehabilitation. For example Ross & Fabiano(1985: 142) state: "... many will quickly reject the cognitive model or any other model which appears to ascribe the blame for criminal behaviour to the individual offender. Those who argue that crime is a consequence of social, political, economic inadequacies will declare a pox on a discussion of criminal behaviour which focuses on the inadequacies of individuals and appears, thereby, to psychologise the causes of crime."

In a similar vein Andrews & Bonta argue that sociological explanations for crime and criminal behaviour have been used to reduce the prestige of the explanatory power of psychology in relation to personal conduct and individual difference. For example, they argue that: "Mainstream sociological criminology proclaimed (as opposed to documented) that three key truths were well-established. These three "truths" essentially rendered a psychology of criminal conduct , *a priori* and by definition, irrelevant to an understanding of crime"(Andrews & Bonta 1994: 52). Each of these "truths" are instead labelled by Andrews and Bonta as myths. Their argument is that explanations for crime which stress "political economy and structural features of the broader social system" are flawed as the types of concepts used in those analyses such as social class, age sex, ethnicity, etc., treat individuals as "empty biophysical entities" and ignore individual inadequacies and differences. In essence, the contribution which psychology can provide to corrections in the rehabilitation of offenders has been undervalued due to an alleged bias in sociological and criminological research. Andrews & Bonta propose that the so-called truths of sociological criminology are false, consequently if this position is accepted as true then a greater heuristic adherence to a psychological position on rehabilitation can be developed which excludes other modes of explanation. In essence they believe that the "nothing works" perspective on rehabilitation can be overcome by the adoption of

psychological models for explanation of criminal behaviour which address so-called offender risks and criminogenic needs in the targeting of programme funding. They believe that this model will significantly reduce recidivism, through programming of cognitive skills promoting behavioural change but which in essence are merely the appropriation of teaching methodologies which are normally incorporated in the curriculums delivered by teachers.

Hegel in the *Phenomenology of Spirit* (1977) explores concepts such as true, false, truths and untruths in the relation to the action of consciousness in deciphering perceptions of the world. For example in regard to salt we say that “it is white, also cubicle and also tart and so on. But insofar as it is white, it is not cubicle and insofar as it is cubicle and also white, it is not tart, and so on” (ibid: 73). Whilst it could be suggested that each of these things is true insofar as consciousness determines things in relation to otherness, it could be suggested particularly in regard to the Social Sciences that whilst some interpretations may at once seem to be truths, that in regard to other minds and ways of seeing, that in fact such truths are falsities, myths or even untruths. “It is sound commonsense that is the prey of these abstractions, which spin it round and round in their whirling circle. When commonsense tries to make them true by at one time making itself responsible for their untruth, while at another time it calls their deceptiveness a semblance of the unreliability of Things, and separates what is essential from what is necessary to them yet supposedly unessential, holding the former to be their truth as against the latter – when it does this, it does not secure them their truth, but convicts itself of untruth” (ibid: 79).

Andrews & Bonta and their adherents from the criminogenic needs school, it should be recognised adopt this mode of argumentation in attempting to increase their influence within corrections at the exclusion of other methods by refusing to recognise that there are indeed truths in a variety of perspectives which can contribute to the development of inmates. Within their analysis there are substantive errors such as in their analysis of the various modes of correctional treatment and philosophical justifications for punishment (Andrews & Bonta 1994: 63). Their analysis of criminological genealogies promotes Lombroso, genetic models and other controversial medical and psychological explanations for criminality including the notion that crime is intergenerational, ie it runs in families (ibid: 127). They account for this in the major factors of the criminogenic needs scale by referring to familial factors (ibid: 232).

Whilst acknowledging that there are criminogenic factors contributing to crime these can range from effects of modernisation on traditional societies, police corruption which lends encouragement to the development of criminal careers, and social policy failures by government to address community needs which potentially would overcome inequality, and provide economic opportunities for individuals which would ameliorate marginalisation. Findlay (1999: 132) argues that:

“Poverty in most social settings is an issue of social rather than individual pathology. Having said this, the poor are not some pathological manifestation of social ills but are a product of consistent and deeply structural inequalities. In the modern city, for instance these inequalities may focus on chronic

unemployment and employability. In developing urban settings the focus might be more on educational deprivation or slum housing ...

Certain forms of crime have traditionally been the province of the poor and disadvantaged. This is especially so when particular forces are disadvantaged such as discrimination and disability conspire to marginalise the offender. Thus young female drug abusers who, due to a variety of social conditions which ensure that they are poor, make up a significant population amongst street prostitutes in the modern city. Prison populations are overrepresented with the illiterate. But this observation does not, except in particular instances, confirm a causal connection between crime and poverty. Rather, it suggests that contexts of poverty, which themselves arise out of specific social arrangements, are marginalised. Those poor who operate within such contexts will face marginalised opportunities and choices.”

Quite clearly, crime by definition can only exist within a social reality, but this does not necessarily mean that such a recognition does not preclude the role of individual action, opportunities, choices, differences, sub-cultural influences, marginalisation, and the development of anti-social attitudes impacting on an offenders personality. The criminogenic needs model unfortunately at its extreme adopts exclusive modes of interpretation which militate against broader recognition of social and structural factors which can produce criminogenic effects. It could be argued that such predispositional accounts of behaviour fail to recognise the role of intention, *mens rea*, in the guilty act of an offender in committing a crime.

The promotion of the criminogenic needs model in a number of jurisdictions has been based on the prediction that intensive cognitive skills programs would be able to reduce recidivism, particularly amongst high-risk groups. On the basis of this prediction traditional educational delivery in many jurisdictions, particularly Canada has been displaced. Robinson in a review of the effectiveness of cognitive skills programmes in Canada conducted by the Correctional Service of Canada found that: “The effects associated with risk of recidivism provided important information about offenders who need more than Cognitive Skills Training for successful release. While it was expected that high-risk offenders would gain most from completing Cognitive Skills, the data did not support the assumptions for offenders who receive the programme in institutional settings. On the other hand, low risk offenders appeared to benefit from the programme regardless of whether they received it in institutional or community sites. Generally, programme assignment is based on the principle that offenders who are at high risk of recidivism should be given priority for treatment. It is assumed that allocation of services to low risk offenders is wasteful because the latter group recidivate at rates which are too low to be affected by interventions”(Robinson 1995: 50-51).

Interestingly Bonta(2001) still argues that the most effective form of intervention with inmates which will produce significant reductions in recidivism are those that adhere to the criminogenic needs model. He argues for example that correctional programmes for offenders should be highly structured, should target specific needs, have clearly defined objectives and that individual interventions such as one on one counselling can be counter productive to producing rehabilitation.

In spite of the controversy surrounding the criminogenic needs model, its failure to be recognised in the Gonzi Review, lack of a generally favourable evaluation, the NSW Department of Corrective Services has been relentless in its pursuit of this model which has been used to undermine education and vocational programmes. Regardless of the most recent comments by Bonta regarding effective programme intervention, the Department has been reluctant to apply those very principles concerning individual interventions and counselling to services it provides to inmates in psychology, drug and alcohol and welfare.

It has been of grave concern to the NSW Teachers Federation that the recently introduced Crimes (Administration of Sentences) Regulation 2001 has in effect been used to create a legislative base for the introduction of a criminogenic needs model in the delivery of services and programmes. This new regulation minimises and marginalises the role and function of education and vocational training which in the previous regulation bore a much closer correlation to the broad aims enunciated in the Council of Europe and UN recommendations on education in prison. The Teachers Federation was not consulted by the Department over these changes to the regulations nor were such changes foreshadowed in the regulation impact statement which the Department is required to do under the Regulation Review Act.

The Federation wrote to the then Minister John Watkins, and also contacted the Regulation Review Committee in regard to our serious concerns over the impact which this new regulation would have on the delivery of education and vocational training programmes to inmates, and the civil and political rights of members working in Correctional Centres.

The Federation received correspondence from the Minister for Corrective Services (John Watkins) on 14th November 2001 in regard to the serious concerns raised about the new regulation. In that letter he stated that “Not only did I expect that the Federation would have been consulted, but my office sought, and received, an assurance from Departmental officers that all relevant unions had been consulted.” He indicated that he was “deeply committed to ensuring that inmates have access to the best possible educational resources” and that he was “committed to improving the lot of teachers within the Department of Corrective Services.” The Minister assured the Federation that amendments to the regulations would be considered, and the Federation now will be entering into negotiations with the Department to achieve a satisfactory outcome.

The criminogenic needs model has been responsible for what can only be termed as destructive impacts on educational delivery in jurisdictions where it has been introduced. Ethical issues that this model raises concerning imprisonment and modes of punishment is the close connection produced with theories such as those which promote selective incapacitation. As this model is aimed at prediction of future risk of offending after release, it is feared that selective incapacitation really means selective release.

The NSW Teachers Federation and its members in the Corrective Services Teachers Association are rightly concerned about the impact which the introduction of the criminogenic needs model is causing and are justified in campaigning on this issue.

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