

Response to Dr Alice Mills “Government’s engagement with a knowledgeable civil society:”

Major Sue Hay “Navigating the challenges involved when NGOs accept Government Contracts”

Abstract

The Salvation Army has been working with those in the criminal justice system since the 19th Century, starting with the original ‘prison gate brigades’, where Brigade members met discharged prisoners upon their release and offered them a home and the prospect of a job. Today the Salvation Army continues to work with those in the criminal justice system, in the Courts, in the prisons, and beyond the prison gate in rehabilitation and reintegration services. As is the case with other similar organisations in the UK, many programmes in the criminal justice sector today utilise partnerships with Government to fund their services. Some of these services would not exist without such contracts. This is not unique to New Zealand. Our current NGO climate demands competition for contracts, reliance on such contracted funding, and the outsourcing of prisoner reintegration and support services to other entities. Such a climate raises significant questions and challenges for NGOs in New Zealand. This includes the ability to retain our distinctiveness, independence, trust and innovation whilst maintaining adequate sources of funding for the vital *mahi* still to be done in the criminal justice sector. Lessons from the UK may provide some helpful inspiration for further collaboration and unity with each other amidst these challenges.

Response: Introduction

Kia Ora! Talofa lava! I want to acknowledge the contribution of all who have gone before me, within this sacred space, and on this land. What an important conversation this has been.

Thank you, Dr Mills, for your insight into the UK context and your work on the role of civil society organisations in the criminal justice sector. For the purposes of this response I will be using the term NGO, (Non Governmental Organisation) which is more commonly used in New Zealand, and as already explained is one of many different terms for essentially the same thing.

The Salvation Army has been working with those in the criminal justice system since the 19th Century, starting with the original 'prison gate brigades', where Brigade members met discharged prisoners upon their release and offered them a home and the prospect of a job. Much has evolved and changed since then. However, The Salvation Army today remains faithful to the original vision and this is summarised by our current New Zealand Mission Statement: 'caring for people, transforming lives and reforming society'. This mission has inevitably led The Salvation Army to continue to work with those in the criminal justice system: in the Courts, in the prisons, and beyond the prison gate in rehabilitation and reintegration services.

Currently in New Zealand we have a Salvation Army representative present in many of New Zealand's courts, we work with justice clients struggling with addictions both inside and outside the prison gate, with prisoners, and we provide a reintegration service for ex-prisoners. Alongside this, the Social Policy and Parliamentary Unit carries out research and policy analysis on social issues impacting the marginalised in New Zealand, and this encompasses the crime and punishment space. This Unit is independent of any government funding or oversight, and as such retains the right to critique government policy and direction.

The Salvation Army is, therefore, a large NGO in the New Zealand criminal justice context. Many of our programmes in the criminal justice sector rely on government contracts to fund services and some of these services would not exist without such contracts. Our work in the sector highlights some of the unique challenges of the relationship between NGOs and the Government in the current climate.

Salvation Army Reintegration Service

I will briefly describe one particular service we offer, which is government funded - a reintegration programme for ex-prisoners, which I hope will help to inform the discussion of some of the challenges that Dr Mills has identified and what these challenges look like in the New Zealand context.

The Salvation Army Prisoner Reintegration Service started in 2007 in Christchurch and later extended to Wellington¹ and then to Napier and Invercargill. Later this year services will open in New Plymouth, Palmerston North and Gisborne, under an expanded contract with the Department of Corrections. The service is contracted to support up to 500 released prisoners a year, with some receiving six months of support, including a flat to live in for 13 weeks, and support for a further 13 weeks in their own accommodation. The Salvation Army Reintegration Service is contracted to work with men and women who have a high risk of re-offending and limited or no

¹ Raymond, Robin. "Beyond the Prison Gate" *War Cry magazine* (online ed, New Zealand, 19 September 2015) at 5-7.

other support. Clients must have served at least two years in prison. Most have serious criminal convictions.

Reintegration Service staff work closely with the Parole Board, prison staff and probation officers, working out a person's release date and if there is suitable accommodation available. Usually clients are referred by their prison caseworker, although some have contacted The Army directly after hearing about the programme. Staff meet clients for an assessment, and multiple times in the week before they leave prison. They are picked up the day that they are released. The first stop after leaving the prison gate is to a doctor for a medical certificate to assist with the Job Seeker Benefit requirements during the first month post-release. They also need photo ID, an address and a bank account to receive a benefit. As many of you know, it takes time to acquire these things, but without them life for an ex-prisoner can be pretty grim.

Clients in the programme are assisted into supported accommodation. Finding the right flats can be difficult, and requires skilled work with neighbours and landlords. The focus of the Reintegration Service is helping clients normalise and find their place within the community. Staff attend a client's first few probation meetings and help clients keep to the safety plans drawn up to help them avoid reoffending. Some clients work every day and catch up with Reintegration staff on breaks or in evenings. For others, a day can include our staff taking them to probation meetings, helping them to job hunt, or just listening when clients recognise they are at risk of re-offending.

As you can imagine, the arrangement has the potential to create a fairly complex combination of government oversight and NGO service provision.

Dr Mills identified in her paper that NGOs in the UK now provide most of the prisoner reintegration and support services on offer. In New Zealand the need, as we know, is clearly there: of the prisoners released in New Zealand every year almost 27 percent are back in prison within a year, and 37 per cent after two years.

Beyond the statistics, the effects of this are much more far-reaching than recidivism rates, including the crushing effects prison can have on individuals, families, and our communities. Dr Mills has already identified NGOs play a vital role in limiting these effects on offenders and their families. This includes the NGOs independence from the criminal justice system, which allows for more innovation and diversity, the importance of trustworthiness and approachability, greater capacity for improving social cohesion in the community, and the potential for a kaupapa that commits to the overall wellbeing and long-term holistic sustenance of the individual.

Challenges in the New Zealand Context

Empowerment

Dr Mills identified that in the UK NGOs now provide most prisoner reintegration and support services. This may be very positive, especially in light of the unique strengths of NGOs we have identified. However, in the UK as well as in New Zealand, this raises questions about how empowered NGOs are to deliver these services. How do we determine if the Government is meaningfully utilising NGOs' unique expertise and strengths, or is it just a cost-cutting exercise? Are government partnerships with NGOs truly meaningful and equal relationships? Is this a PR exercise, or even an excuse to shift risk?

In terms of funding, we know funding for NGOs services does not necessarily match those of government-managed services. Our prisoners require long-term substantial support and follow up, and we fear this form of service is at risk of being side-lined to groups which tender for more cost-effective options. There is concern such options have less capacity to deliver the soft outcomes which enhance well-being, mana, and the long-term resilience of this vulnerable group.

In the New Zealand context we have also seen a shift to the increased privatisation of the criminal justice sector. Serco now runs two of our major prisons in Auckland. This suggests that the contracting model is moving away from partnering with specialist NGOs, to one where such services are driven by market and business efficiency principles, rather than operating out of an ethos of care and well being. As the “investment” approach gains momentum funding and services are prioritised and targeted based on an “investment” that reflects government priorities.²

Measuring outcomes

This market driven philosophy includes an emphasis on evidence-based, measurable, quantifiable outcomes. I suggest NGOs are no longer able to make vague claims that we are ‘adding value’ but rather we are required to measure the value we are delivering, and demonstrate this is achieving value for money for the taxpayer. We can see this as a burden, or as legitimate accountability, which holds us to account for the delivery of high quality outcomes. And, surely, our intent is to deliver nothing less than the best for our clients.

Yet it seems to me as I engage with the NGO sector that getting our heads around how to measure the value we deliver is very challenging, and a significant paradigm shift. How do we convey our kaupapa or values as tangible outcomes? How do we prioritise long-term holistic transformation of individuals and communities whilst meeting our contractual targets? If the social and physical well-being of the person and their connectedness to their identity, their whanau and their community has a significant impact on their likelihood of reoffending, how do we measure this?

In fact, The Salvation Army recently carried out research in partnership with Otago University to assess the effectiveness of our Bridge Addiction Treatment Programme. The university worked hard to establish measures that would quantify tangible outcomes such as: changes in substance use; levels of mental, social, spiritual and vocational functioning; quality of life, and criminality. Thus, we know it is possible to measure these outcomes, but such robust research took significant time and resources and would not have been possible were we not a large NGO. The challenge for the sector, of course, is that the increased expectation to deliver evidence-based outcomes, is not matched with the funding to conduct the quality research which would provide the evidence of our effectiveness. How we respond to this challenge is yet to be resolved for most, if not all of us.

Let us also be brave enough to admit that as NGOs we have been funded for inputs and we have not had to be accountable for the outcomes we deliver. The recent report on CYFs must be a wakeup call to us all. Delivering services is not enough. We need to be sure we are doing no harm, and that we are delivering positive change. Yet who among us can currently prove this is so for our own services? Dare I suggest we can hide behind the claim we are delivering ‘added value’ and that this is no longer an adequate response.

² Brian, Michael. “Profound Implications” *UniNews*, September 2015.

As the contractual environment shifts beneath our feet, I suggest there is a further challenge, and that is the danger that we grasp at the familiar and subtly adopt a welfare dependency mentality. I hear NGOs demanding that the government must continue to deliver funding. At one level this may be a wish to ensure our own survival. Although the Government does have a responsibility to society an expectation for funding which equates to welfare dependency may limit our ability to embrace with creativity the possibilities offered by new paradigms.

Alongside this old way of thinking is a further danger: when we tender for contracts which specify how we deliver outputs there is a risk that we simply collude with government ideology in order to retain funding. In addition, outputs not desired by government such as robust critique may not be delivered within tighter funding models. For example, reductions in funding to community law centres now limit their ability to speak into law reform processes. Are we brave enough to be clear about our values and be clear about how far we are prepared to bend in order to accept contracts? Were we to identify our boundaries as a sector would this prompt a change in Government behaviour? I suggest we have negotiating power we may not be fully owning.

Independence

The Salvation Army's Reintegration Service currently has a good working relationship with Corrections, and its contracts provide sufficient freedom for the service to operate under a model that best supports ex-prisoners and their reintegration journey. However, good relationships with government departments can be highly dependent on particular individuals and working relationships at any one time. These can suddenly change as people move on from roles, within government or the NGO. The Salvation Army is conscious of the climate under some government contracts where NGOs do not feel that they can speak freely or critique certain government policies for fear of losing their funding altogether. This has significant implications for the sector's ability to retain a distinctive and alternative voice that is vital to healthy civil society.

In Dr Mill's research all NGO interviewees were asked if they thought obtaining service contracts would affect their ability to critique government policy or advocate for their cause. Half claimed this would have no negative impact on their ability to voice public criticism, and ascribed this to government recognition of their independence. Much of this confidence was underpinned by the 'Compact' agreement that NGOs working in criminal justice have with the UK Government.

In 2001 a New Zealand version of the 'Compact' was created, in the form of the 'Statement of Government Intentions for an Improved Community-Government Relationship (SOGI).³ It included six broad commitments to the community sector which can be summarised as: developing respectful relationships; breaking down 'silos' through a 'whole of government approach'; application of the principles of the Treaty of Waitangi; opportunities for involvement in policy development; improving funding arrangements; and facilitation of the development of a strong and effective community sector.⁴ I suspect we would all agree the Government has fallen short of this stated intent. However, in a two-way relationship we too must take responsibility for making this work, and perhaps we have failed in our role to hold government to account.

³ Michael O'Brien, Jackie Sanders and Margaret Tennant, *The New Zealand Non-profit Sector and Government Policy* (Office for the Community and Voluntary Sector, Wellington, 2009).

⁴ Above n 3, at 4.

In 2009, the Treasury released 'Guidelines for Contracting with Non-Government Organisations for Services Sought by the Crown'. Then there was Kia Tutahi. These arrangements offer pathways we may not be fully utilising.

Thus, the impact of these documents, and the success of these relationships has been somewhat variable. In a review of the policy relationship between government and the non-profit sector, most government agencies outside Wellington appeared to know little about the Statement Of Intentions framework.⁵ A recent review of the framework by the Association of Non-Government Organisations of Aotearoa called for the Government to note the value of such a framework; to formalise its implementation by government agencies; and to regularly evaluate progress of government's responsiveness.⁶

With regards to a body such as the 'Clinks' network in the UK, the Justice Coalition in New Zealand is an umbrella group of 12 justice-related NGOs who are jointly committed to seek and deliver positive change across the sector, but it is less formal and still fairly small and new.

Privacy

A further concern of a strict service contract model is the tension between maintaining confidentiality of those whom we serve, and the requirement under some contracts to share information and data with government agencies. Working with a prisoner or ex-prisoner can mean that the individual is interacting with several different agencies at once: Corrections for their probation support, Ministry of Social Development (MSD) for a benefit, and the Ministry of Health for addiction support.

The requirement to share confidential information with a government agency, or even a perception or fear that an NGO is 'in the Government's pockets' may be counter-productive to an offender's rehabilitation. Many of our clients have already negotiated multiple government agencies over their lifetime and have experienced discrimination and marginalisation in these interactions. Dr Mills has identified that a strength of NGOs is that offenders may view us as more approachable and trustworthy. The Salvation Army has its own privacy statement and principles, and takes the trust of its clients very seriously. This is something that we as a sector will need to continue to be conscious of as we negotiate our government contracts and the structure of our services.

Moving forward

So what might Dr Mill's UK research mean for the sector in New Zealand?

Historically, public discourse on crime in New Zealand has been largely dominated by fear. These narratives have translated into punitive policies and legislation such as the 'Three Strikes' law, which are not necessarily well thought through or evidence-based responses. This in turn has led to a flawed understanding of what community safety looks like, and what it takes for ex-prisoners to be treated with the inherent dignity they deserve as they move out of a life of criminal activity. An ideology that assumes that 'community safety' is best achieved by locking people

⁵ Above n 3, at 4.

⁶ Association of Non-Governmental Organisations of Aotearoa '*Good Intentions*': An Assessment of the Statement of Government Intentions for an Improved Community-Government Relationship (ANGOA, Wellington, 2009).

away simply perpetuates discrimination and alienation, and keeps the challenge of unacceptable behaviour out of sight.

Such a dominant ideology needs to be constantly challenged. It is important to recognise and celebrate the progress made in the last decade in New Zealand through the work of groups like JustSpeak and Rethinking Crime and Punishment, the Howard League and others, who have been able to create a consistent and challenging voice. However, we do have some way to go to move our voices from the margins to the mainstream.

In the climate that we are in, New Zealand NGOs need to become more skilled in negotiating and reframing the language used by government such as 'reducing reoffending' and 'community safety' in our advocacy and work. We need to take charge of the discourse and make it obvious to government and the public that community safety is not mutually exclusive of a kaupapa of dignity and support towards offenders. If our voice goes quiet, there is a risk that fear takes hold of public opinion, and fear gains further traction. We need to make the most of the progress made, and identify further opportunities for maintaining a strong and consistent alternative voice. A robust and independent third sector must be maintained and encouraged to ensure an alternative paradigm, that is both evidence driven and embracing of values such as compassion and dignity.

The New Zealand third sector does have some tools at its disposal. We have some similar networks to those discussed by Dr Mills, such as the Association of NGOs Aotearoa, and the Justice Coalition in the criminal justice space. These networks have potential, but could be more robust and build on a diverse but unified voice.

For those of us who are navigating the challenges of government contracts, we as a sector also need to make the most of the 'Compact' that we have with government and educate ourselves on the Treasury guidelines. This will include holding the government to account on the principles that the statement of intention and the Treasury guidelines recommend, and continuing to push the current government for a more formal framework that gives such a statement real teeth.

Given the size and diversity of New Zealand, it is also important to reflect on what works well in our context, and the responsibility is on us as NGOs to take the initiative to forge our own networks to support each other. More networking and discussions around the current challenges in the criminal justice sector may be of some assistance. We need to engage with each other and share common struggles in order to continue this vital mahi.

Forums such as today play an important part in this, so thank you for the opportunity to be part of such an event, and I trust the conversation continues.