

# Models of Privatization and Public-Private Partnerships with Prisons: An Incomplete Survey

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# Roadmap

- Dimensions of Privatization
- Israel
- US Privatization
- Japanese Private Finance Initiative (PFI) Act
- Australia - Ravenhall
- Conclusions



This is a slightly expanded version of what was presented at the conference. It adds to a few slides to reflect what was spoken and incorporates some ideas from later conversations about the session.

# Dimensions of Privatization

- Legal – and ethical – basis for privatization?
- How much privatization?
  - What functions?
  - How many prisons?
  - What type of control and oversight?
- New form of prison,  
or privatize status quo prison?
- Partnerships
  - How many?
  - For profit or non-profit partners?



# Israel



- Legal – and ethical – basis for privatization?

NO!

- 2004 Prisons Ordinance Amendment Law: construct, manage and operate for the first time, a (single) 800 person prison that will be operated and managed by a private corporation rather than by the state.
- Relieve overcrowding and save money
- Struck down in 2009 by High Court of Justice

# Israel II



## Academic Center of Law and Business v. Minister of Finance

- Transfer of powers to a “private *profit-making* corporation” (emphasis added) that had been selected.
- Transfer of powers that, “when exercised, involve a serious violation of the rights to personal liberty and human dignity. These powers include, *inter alia*, the power to order an inmate to be held in administrative isolation for a maximum period of 48 hours; the power to order the conducting of an external examination of the naked body of an inmate; ... the power to approve the use of reasonable force in order to carry out a search on the body of an inmate.”

# Israel III



## *Academic Center of Law and Business v. Minister of Finance*

- Powers transferred to guards include “the power to use a weapon in order to prevent the escape of an inmate from the prison, the power given to a policeman to arrest and detain a person without a warrant” [citations omitted].
- Amendment 28 inherently “leads to a violation of the constitutional rights to personal liberty and human dignity of inmates.”

# U.S.



- Nominal privatization: contracting for construction, food, medical care, education
- 1986: Operational privatization: private company *manages* a facility owned by the government and/or a prison that the company *owns*.



Both are multinational corps, traded on stock exchange. For-profit Real Estate Investment Trusts – pay no federal tax and distribute money to shareholders instead

# U.S. II



- Overcrowding and “incarceration binge,” need more prisons but politicians promise smaller govt/lower taxes
- Private prisons raised billions from investors seeking to profit from incarceration, disproportionately of minorities





# U.S. III



## • Warehouse prison problem:

“there is still too much violence in America’s prisons and jails, too many facilities that are crowded to the breaking point, too little medical and mental health care, unnecessary uses of solitary confinement and other forms of segregation, a desperate need for the kinds of productive activities that discourage violence and make rehabilitation possible.” (Commission on Safety and Abuse in America’s Prisons 2006, p. 390)

Private Prisons enable the expansion and maintenance of too many warehouse prisons

Cite as: 563 U. S. \_\_\_\_ (2011)

51

Opinion of the Court

B



Mule Creek State Prison  
Aug. 1, 2008

From Supreme Court decision in *Brown v Plata*.

“Needless suffering and death have been well-documented.” (p 3)

# U.S. IV








- “Endanger democratic processes”

GEO Group, 2010 Annual Report “Risk Factors”:

- “the demand for our services could be adversely affected by the relaxation of criminal or immigration enforcement efforts, sentencing or deportation practices, ... [f]or example, any changes with respect to the decriminalization of drugs.”

**The Intercept\_**  
**UNOFFICIAL**  
**\_SOURCES**

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**Lee Fang**

**Private Prison Lobbyists Are Raising Cash for Hillary Clinton**

July 23 2015, 1:49 p.m.

As immigration and incarceration issues become central to the 2016 presidential campaign, lobbyists for two major prison companies are serving as top fundraisers for Hillary Clinton.

Corrections Corporation of America and the Geo Group could both see their fortunes turning if there are fewer people to lock up in the future.

See, [\*Buying Access: How Corporations Influence Decision Makers at Corrections Conferences, Trainings, and Meetings\*](#) (In the Public Interest ([2015]))

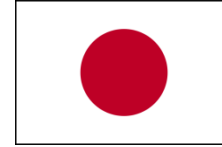
**MARCO RUBIO IS GETTING BIG MONEY FROM FOR-PROFIT PRISON COMPANIES**

 **BY JESS SWANSON**

THURSDAY, JULY 23, 2015 | 8 DAYS AGO

  
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# Japan



## 1999 Act on Promotion of Private Finance Initiative (PFI)

(Definition)

Article 2

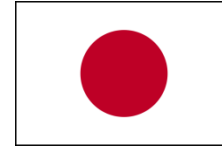
- (1) The term "Public Facility etc." as used in this Act means the following facilities (including equipments):
- (i) Public facility such as roads, railways, ports and harbors, airports, rivers, parks, water services, sewage systems, and industrial water supplies;
  - (ii) Official facilities such as government buildings and accommodation;
  - (iii) Public interest facilities such as public housing, educational and cultural facilities, waste treatment facilities, medical facilities, social welfare facilities, offender rehabilitation facilities, parking, and underground malls;

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<sup>1</sup> Literal translation of this act is "The Act on Promotion of Provision etc. of Public Facility etc. through Utilization of Private Finance etc." We use the term "PFI (Private Finance Initiative)" because this act is widely known as "PFI Act" in Japan.

- Public private partnerships for "offender rehabilitation facilities" – not prisons
- 50 localities wanted one, built 4

# Japan II



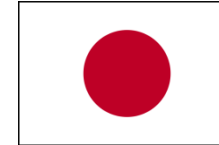
## 3 “pillars” of PFI Shimane Asahi Rehabilitation Center

- Public-private partnership
  - Technology and innovation
- Education, vocational training and rehabilitative programs
  - Special programs, training and therapeutic gardens for emotionally disturbed inmates
- Partnership with community
  - “Co-building” – Center for Regional Engagement



**“aims to create prisons that the public can understand and support”**

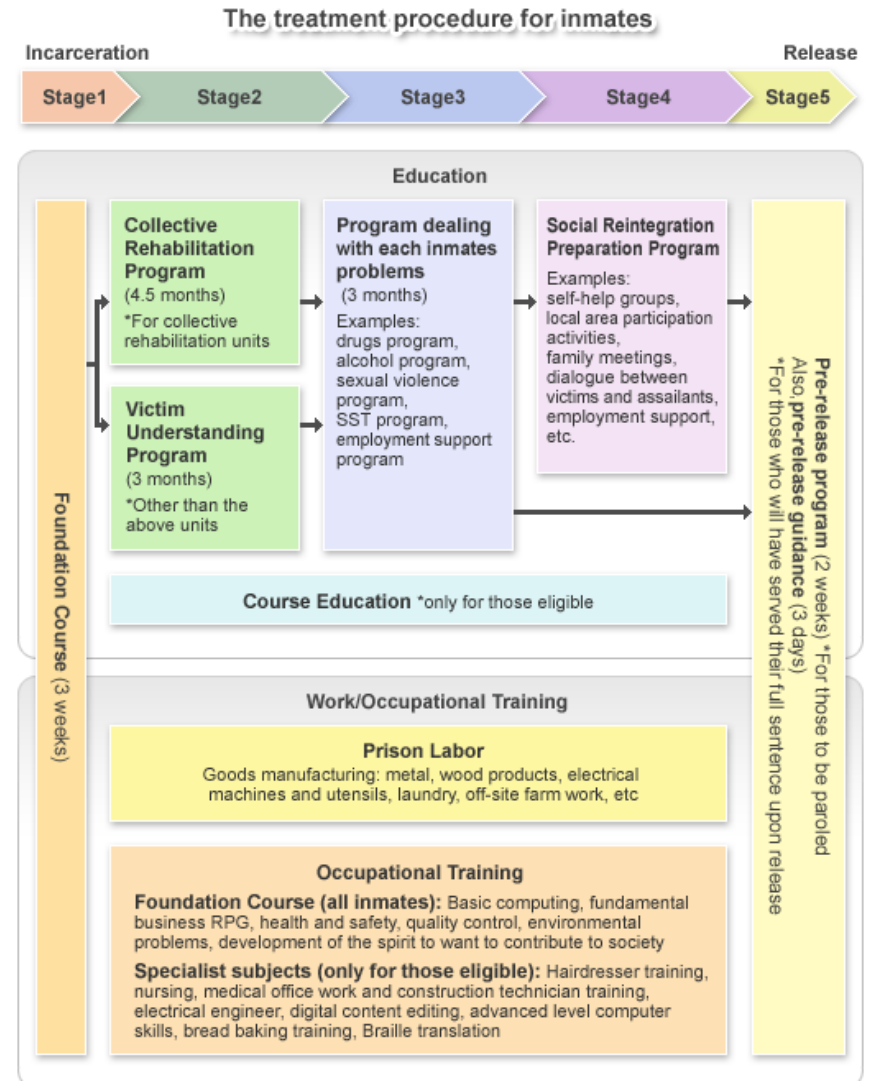
# Japan III



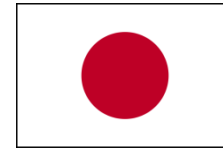
All of the inmates at PFI prisons receive some kind of vocational training, compared to only 7.3 % of inmates of other prisons

Paul Leighton. 2014. "A model prison for the next 50 years": The high-tech, public-private Shimane Asahi Rehabilitation Center. [\*Justice Policy Journal\*, 11\(1\)](#).

From Shimane Asahi website,  
<http://www.shimaneasahi-rpc.go.jp/english/torikumi/index.html>



# Japan IV



Japan

**Government**



**Warden,  
Treatment, Support &  
Planning**



**Private  
Sector  
Companies**

U.S.

**Government**

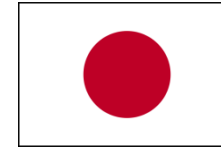


**Private  
Sector  
Company**

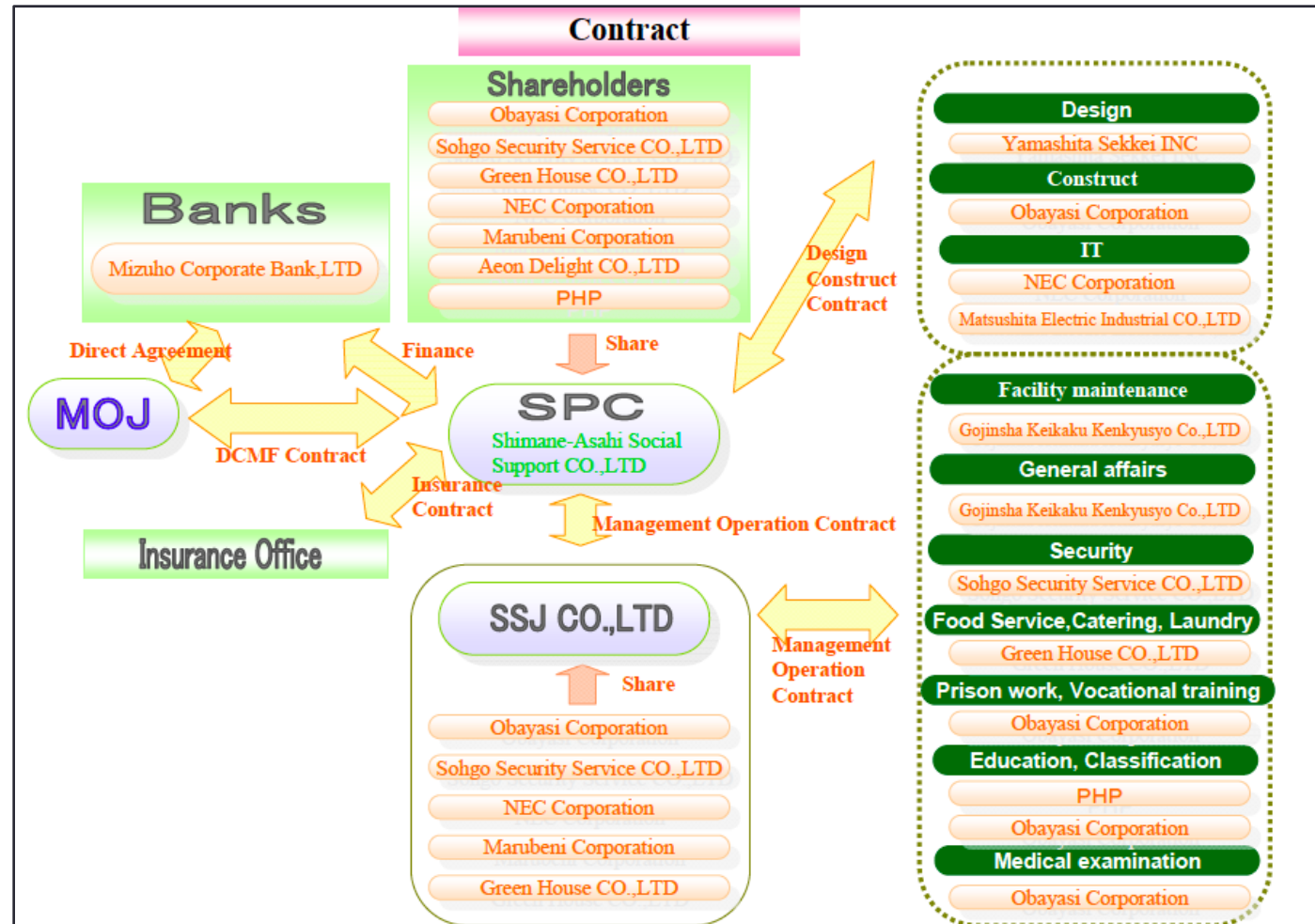
**Warden  
&  
Staff**



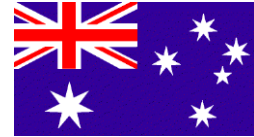
# Japan V



No domination by a big corporation, but complex structure to manage



# Australia



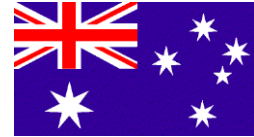
- Existing private prisons generally replicate status quo, but Ravenhall is new form.
- \$700 million for 1,300 bed near Melbourne opens late 2017
- GEO Group (prison operator and equity investor), John Holland(builder), Honeywell (facilities management) and Capella Capital (financial adviser)



[Partnerships](#)  
[Victoria:](#)  
[Ravenhall](#)  
[Prison Project](#)  
(2/2015  
Summary)



# Australia II



- **Ravenhall**

- “It's an unprecedented level of in-prison and post-release programming. This will be unlike any other correctional facility in the world.” GEO CEO Zoley, [Q2 2014 earnings call](#)\*
- Ravenhall will have “collaborative partnerships with community-based organizations, which will allow offenders' release from custody to continue rehabilitation programs. Progressive accommodation units [and] ... innovative use of in-cell IT-delivered programming.” GEO CEO Zoley, [Q3 2014 earnings calls](#)
- Incentive fee to reduce recidivism rates: GEO promised a \$2 million bonus payment if it cuts recidivism at Ravenhall by 12 per cent per year, compared to the overall Victoria prison system. [Work starts on new 1,000-bed Ravenhall Prison in Melbourne, as prison population grows](#)

\*PR hyperbole, although this model is a move in the right direction

# Conclusions

Because we have them does not make them legitimate

- No for-profit police (private security have no power to arrest, use deadly force)
- No for-profit courts (arbitration lacks enforcement and can usually appeal to court)
- Why are for-profit prisons morally acceptable then?

Limits, even when acceptable:

- For-profit executions?
- For-profit business runs whole state or national prison system?



# Conclusions II

**State sometimes fixed or limited in how it manages, so some degree of privatization necessary to create a new model.**



**But, privatized prison and punishment most problematic when state contracts out core management function to for-profit business (esp large corporation)**

# Conclusions III

**Public-private partnerships that emphasize rehabilitation undercut the objection that private interests “profit from misery.” But larger objection is creation of “bodies destined for profitable punishment”.**

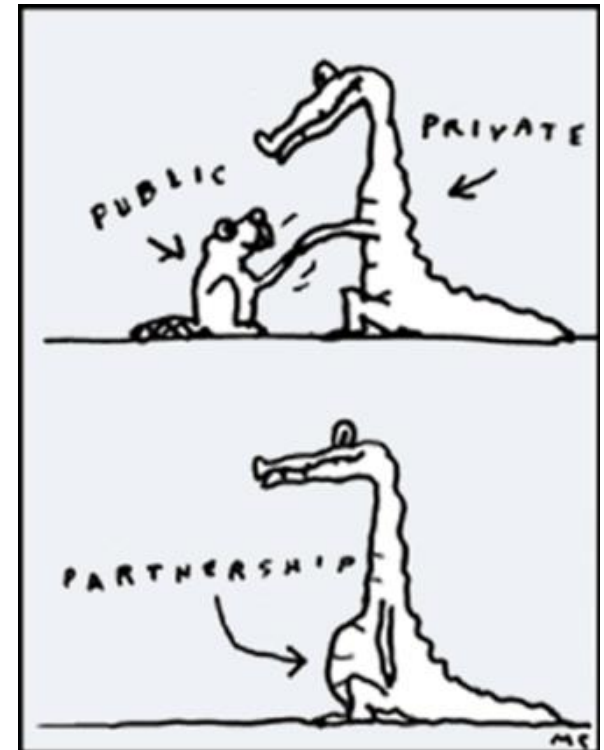
- Campaign contributions
- Political lobbying
- Economies of scale  
(encourage bigness)
- Perverse incentives
- Mis-allocation of capital



# Conclusion IV

**Privatization requires mechanisms for state to oversee business and hold them accountable.**

- Government should keep control of key management positions
- Contracts need to be made public (accountability of politicians)
- Contracts need to be well written and comprehensive
- Effective oversight
- Penalties greater than profit from wrongdoing



# Conclusion V

**Financial savings is not a moral justification for privatization, which worsens problems of inequality.**

- Savings overstated because of industry-funded research and PR.
- Any savings comes at expense of worker pay and salaries.
  - “A lot of jobs in government are middle-class jobs that in the private sector are not middle-class jobs. People aren’t willing to support conditions for public workers that they themselves no longer enjoy.” [John Donahue, Kennedy School of Government at Harvard University](#)

Private	Public
GEO CEO = \$6 million (2012)	Dept of Corrections Director = less than \$200,000
Guard = \$30,460 (2010)	\$39,040 (2010)

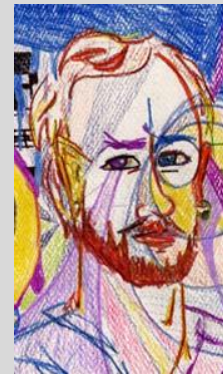
Salary only, does not include the value of benefits.

From Barak, Leighton and Cotton, *Class, Race, Gender & Crime*, 4<sup>th</sup> ed (from Securities and Exchange Commission and Bureau of Labor Statistics data)

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More information:

<http://paulsjusticepage.com/paul/pauls-cv.htm>



See also:

The Problems With Private Prisons,

[http://www.paulsjusticeblog.com/2013/04/the\\_problems\\_with\\_private\\_prisons.php](http://www.paulsjusticeblog.com/2013/04/the_problems_with_private_prisons.php)

Prison Privatization in the U.S. and Japan

[http://www.paulsjusticeblog.com/2014/06/we\\_need\\_a\\_postwarehouse\\_prison.php](http://www.paulsjusticeblog.com/2014/06/we_need_a_postwarehouse_prison.php)

Why Private prisons Do Not Save Money

[http://www.paulsjusticeblog.com/2014/10/why\\_private\\_prisons\\_do\\_not\\_save\\_money.php](http://www.paulsjusticeblog.com/2014/10/why_private_prisons_do_not_save_money.php)