

INTRODUCTION: CONFLICTS AND COOPERATION BETWEEN PUBLIC AND PRIVATE SOCIAL SERVICES

Creative destruction?

The abolition of the one-party system and social ownership was viewed as an act of “creative destruction” (Schumpeter 1950) at the beginning of this decade. It has become clear, ten years later, that the transformation of a socialist into a post-socialist society has not been restricted to the above two instances of abolition but has been enlarged towards the non-creative destruction of almost all institutions. The most destructive has been the introduction of two laws which constitute the new post-socialist society: 1) the law on privatisation 2) the law on denationalisation. The main reason for their negative function was the legally-established domination of capital over work, which is in contradiction with the basic paradigm of modern societies in which symbiosis and cooperation between capital and labour prevail over conflict or the domination of one over the other.

Self-management and privatisation

The one-party system at the macro level of society, and self-management at the micro level, have been mutually exclusive modes of regulation. Their unavoidable outcome was a “société bloquée” (Crosier 1966). With the abolition of the one-party system and the establishment of political pluralism, self-management at the micro level of society obtained a compatible macro structure. An opportunity was created for a revitalisation of self-management – an opportunity which has never been exploited.

The introduction of privatisation has been an additional change, which might support the revitalisation of self-management as a suitable form of self-regulation. Numerous empirical studies were already available at the time; these studies revealed that employee ownership without active participation does not have any effect on the redistribution of power and the representation of interests (Russel, 1985). On the other hand, many empirical studies of Yugoslav practice were available which proved that broad legal participation rights of employees did not increase their power. The influence of workers was surprisingly low and modest (Rus 1970; Županov 1971; Rus, Adam 1986). On the

basis of these findings, it was not too bold to conclude that the participation of employees and their buy-outs are not only mutually supportive processes but are twins with remarkable synergetic potentials.

However, at that time a prevailing anti-communism completely prevented the preservation of self-management as a complementary part of post-socialist society. Of course, nobody expected that the whole institutional system of self-management would be preserved, but its principle of self-regulation might be a useful legacy for the newly-generated socio-economic order. Instead, self-management was completely abandoned and a kind of “Mitbestimmung” established.

Politically contaminated privatisation

The law on decentralised, and a spontaneous and autonomous privatisation, which has allowed various forms of privatisation of companies, has been introduced in Slovenia (Law on the Ownership Transformation of Companies 1992). It has been more democratic and more participatory than in other post-socialist countries. Slovenia also successfully resisted the implementation of so-called shock therapy, and became an example of a success story simply because it avoided this method of privatisation reform (Whitely et al. 1997).

The Law on the Ownership Transformation of Companies also offered employee buy-outs or so-called “internal privatisation”. Both partial internal buy-outs on the part of employees and the new Law on Codetermination have raised some expectations that at least a modest degree of industrial democracy would be re-established and that some kind of continuity with the previous self-management system would be assured.

In spite of such expectations, a more recent comparative study shows an extremely low quality of working life in Slovene enterprises (Macur, Rus 1998), both in comparison with the other countries involved in the study and with Slovene enterprises ten years ago. The reason for such unexpected and undesirable results should, in our opinion, be connected with political interventionism during privatisation processes. We should first take into account the fact that only a part of social capital has been privatised by employees and that the majority of it has been concentrated in the hands of public investment funds, which are more or less controlled by the various political parties. They directly influence the processes of the nomination and co-option of members of supervisory boards and, indirectly, of the top-level management boards as well. In this way, employees, although they are in possession of a substantial part of shares, do not have a significant influence on working affairs and are therefore even less powerful than they were during the previous one-party “totalitarian” period.

The domination of passive over active ownership (McPherson 1978) is perhaps the best characterisation of the overall outcomes of privatisation in Slovenia. Workers and managers do not have enough control over capital assets, while politicians and government have too much. This will not have implications only for enterprises and the economy, but surely for society as a whole as well. It is difficult to imagine that under

such circumstances one could expect a renaissance of “active civil society”, which is treated as a “basic part of the Third Way” (Giddens 1998:78).

Lessons from decade-long privatisation

In addition to the above-mentioned failures, which are more or less connected with the political contamination of privatisation processes, we should also mention here the elimination of justice as a criterion for the privatisation of social ownership. Not only economists but also leading politicians (especially those of the Right) persistently rejected the possibility of introducing justice as a criterion for the allocation of wealth among the population. Although it was known from previous empirical research that the great majority of the population conceives justice as a strong correlation between individual contribution and retribution, i.e. as a meritocratic concept of justice (Antončič, Rus 1993), the political elite did not accept this criterion as a guiding principle for privatisation.

Politicians have argued their negative position with the statement that the meritocratic concept of justice is not relevant to the privatisation of social ownership. They have been interested in allocating capital as much as possible to government or to public investment funds, since they have access to them and since by this they avoid the allocation of capital to “red managers” and workers.

Economists have, from the other side, defended the thesis that justice and efficiency are not compatible criteria, and that we should therefore neglect or at least subordinate justice to efficiency. This thesis was, of course, in complete contradiction with the nature of privatisation, since it was not regulated through the market but through bargaining among political parties. Taken into account, the nature of privatisation economic criteria have in fact been irrelevant, and justice the only possible alternative.

To sum up: the whole process of privatisation of social ownership has been neither acceptable nor feasible. Acceptability has been an even more critical issue because of the Law on Denationalisation (1991), which forced the return of property to the (grandchildren of) previous owners. This law has been legitimated through an opposite logic. In this case, justice based on inheritance has been the main or only criterion, while economic efficiency has been totally neglected. The final effect of denationalisation has been described by some critical observers as a process by which we have meted out injustice to the living population and justice to those who have already passed away. It is obvious that, through such a low legitimacy of privatisation and denationalisation processes, the whole newly-established politico-economic system does not enjoy great support from the majority of the population.

On the other hand, we should mention that the Slovene population has been inclined towards changes from the very beginning of transition. The value orientation of the majority, tested through numerous public opinion surveys, testifies to the fact that resistance to privatisation has been lower in Slovenia than in most other post-communist societies and, at the same time, that meritocratic criteria have been stronger than

elsewhere (Toš 1992). Perhaps the most relevant finding from these public surveys has been that the vast majority of the population does not perceive private ownership as a means of exploitation and domination, or as a means of leisure and irresponsible enjoyment, but as a means for a more independent and more secure way of life.

The political elite has ignored this unique value orientation of the population. It has also neglected economic goals, even though they have been officially most frequently stressed as dominant. The real goals of all political circles have been how to ensure their maximum possible control over capital assets under privatisation.

The third wave of privatisation

The privatisation of social services obtained its popular expression as a “third wave” in the World Bank study by Torres and Mathur (1996). Privatisation in this field became a more urgent issue five years ago, when the first proposed law on the privatisation of state property appeared in the National Assembly. It was a kind of copy of the Law on the Ownership Transformation of Companies and was not feasible for institutions carrying out public services, such as nursery schools, schools, hospitals, old folks’ homes, etc.

In 1998 the second proposed law on the privatisation of state property appeared in the National Assembly; it was not that different from the first proposal. Its main weaknesses might be summarised as follows:

- Instead of cooperation and the smooth transfer from the public to the private sector, quite intransigent relations were introduced by the norms of this proposal. Employee buy-outs are heavily restricted and contracting-out limited by the network of already-existing public institutions.
- The level of autonomy of public institutions is too low and their monopoly position in comparison to private institutions too high; the internal initiative of professional providers is very much restricted and their competitiveness with private providers almost eliminated.
- Privatised institutions are too narrowly controlled by the golden share of the state, which might, in critical cases, totally cancel out the internal autonomy of privatised institutions.
- Privatisation refers exclusively to assets and not to activities; most legal provisions are devoted to the buy-outs of assets by external or internal subjects, while there are no explicit rules according to which the professional activities of providers (physicians, professors, etc.) should be deregulated and more dependent on the users of services.

Such a split between the norms which regulate the privatisation of assets and those which regulate the privatisation of activities might cause a similar evaporation of synergy between social and human capital on the one hand, and financial and physical capital on the other, as was caused through the privatisation of commercial companies. Since social and human capital in social institutions like hospitals and schools is greater and

strategically even more salient than in companies, one could expect that the above-mentioned split might generate even greater damage to institutions which would be involved in privatisation processes.

The content of contributions

The papers presented in this issue of the Journal of Social Sciences have the same common function: to serve as an early warning system against possible future dysfunctions of privatisation in the field of social services.

The first two papers deal with theoretical premises. The focus of Boštjan Zalar's paper is human rights as evaluative criteria for just privatisation. Justice is an unavoidable condition for fully legitimate privatisation. This guarantees that deregulation, liberalisation and marketisation - as accompanying processes of privatisation - do not endanger socially acceptable solutions. It is a task of the government to ensure the full implementation of human rights through the privatisation of social services both by resigning its position as exclusive owner of these services and by exercising control over activities of privatised social services to check whether an equal approach, standards of quality and prices are in accordance with human rights.

Veljko Rus's paper is devoted to the multi-level dilemmas of privatisation. According to the author, the most decisive predictors of privatisation should be a type of coalition generated during privatisation processes. He believes that for socially acceptable and economically efficient privatisation, the most desirable coalitions would be between providers and users, and the least desirable (but most probable) coalitions would be between politicians and professional providers. In addition, much better results might be obtained if users and providers had, at the same time, alternative opportunities to use "voice" and/or "exit".

The second cluster of papers is devoted to empirical findings relating to privatisation in the field of primary medical practice. The main reason for this empirical research to be focused on medical services lies in the more advanced privatisation in this field in comparison with other social services. The findings are presented from two parallel surveys made between physicians as providers and patients as users.

Data derived from the survey of users (Černič, Macur) confirms that they are more satisfied in relative terms with medical services in private practices than in public ones, primarily because of more personal treatment from doctors. We should also mention that satisfaction with public services is also rather high. Even more importantly, during the last five years user satisfaction with this kind of service has been higher than before – both in private and in public practices.

Data derived from the survey among general practitioners and dentists (Iglič, Kramberger) reveals that those doctors who already run private practices have longer working hours, are more engaged in their professional development, and are also more active in professional associations. At the same time, they are not resistant to comprehensive external control over their professional activities.

The above findings suggest that we might expect desirable social and economic privatisation outcomes if only political intervention would not distort the spontaneous trends of privatisation generated by doctors and users themselves.

The last cluster of contributions is focused on a critical evaluation of legal norms, which are relevant for the privatisation of social services. Helena Kamnar's contribution is focused on the legal regulation of public institutions (schools, hospitals, etc.) and their relation to private institutions. In her opinion, these legal norms are internally inconsistent since they offer public institutions a privileged financial status and a deprived status concerning property and management rights. The privileged financial status is manifested in the fact that public institutions might offer private services paid for by users while, at the same time, using public facilities. Such competitive privileges hinder the activities of private institutions. On the other hand, public institutions are deprived since they do not have enough internal autonomy to exercise the more flexible and more cost-saving implementation of public programmes. The author believes that these dysfunctional phenomena might be eliminated by the legal restriction of public institutions to public services and by greater internal autonomy.

Vesna Čopič focuses in her contribution to the redefinition of the role of the state in the field of culture. She suggests to separate the provision of these services from the state, i.e. the state should keep its financial (supporting) function, whereas the organisation and provision of cultural services ought to be transferred to various bodies of civil society. She is convinced that it is a feasible way to establish the necessary competition, as well as to maintain (public) responsibility in the field of culture.

Boštjan Zalar analyses both legislative proposals for the privatisation of public social services from three points of view: legal, economic and social. He concludes that employees in public institutions are, from the legal point of view, deprived in comparison with employees in commercial companies, since they do not have the same opportunities for participation rights. From an economic point of view, the proposed law contains the same failure as those which regulate the privatisation of companies – i.e. that they encourage disinvestment more than new investment in institutions under privatisation. Finally, from the social point of view, the second proposed law does not take into account social and human capital, whose strategic role is even more salient in social services than in commercial companies.

The author believes that the greater professional autonomy of professional providers, the encouragement of internal buy-outs by employees, and the professionalisation of management could create socially more acceptable and economically more efficient outcomes.

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