Birgit Mahnkopf

Against Privatisation of Public Goods or: Why Social Democracy is the first Victim of Privatisation

Until the 1980's, the State in Continental? [why not just Europe?] Europe was understood as a necessary and appropriate instrument for social balance. The privatisation of essential utilities (railway network, postal system etc) was seen at first as very controversial. Privatisation of public goods such as water, health insurance or education was for a long time not a matter for debate. Because privatisation was associated with wasteful competition and with abandonment of social justice as a political objective. In public discourse until recently, the model of „rheinischer Kapitalismus" (Albert 1994) was confidently set against the US one as an economically successful approach in the context of globalised competition.

Unlike in the US capitalistic model, which, through neoliberal globalisation, has dominated the world outside Europe, the State in Continental? Europe served as the guarantor of social welfare and economic security for all employees, of the fight against extreme poverty, and of the effort to secure equal access to high quality social services and essential utilities. Therefore, the prevention of wasteful competition between national providers of energy supply, postal, telegraph and telephone systems, supply and disposal of water, public transportation etc. was a central policy of the State in respect of economic development. However, the implementation of social and infrastructural policy was mostly managed by non-state agencies. In the German states, subsidiary regulations issued in the 19th century lay down that private enterprises will get orders for essential services rather than public enterprises if they can fulfil the orders better or comparably. The maximisation of the public good was always the measure for the private or public provision of essential services : thus permitted was what was of most use to the citizen.

Since the mid 1990s, the wave of global deregulation, liberalisation, and privatisation has totally overwhelmed the European welfare states. However, this happened somewhat later than in the US or Great Britain, where the "neoliberal counter revolution" had already begun in the mid 1970s, and in the southern European countries was enforced since the 1980s by means of the structural adjustment programmes of the IMF and World Bank. In Europe, as elsewhere, this development hollowed out all that the citizens of the wealthy industrial countries, which profited from the neoliberal globalisation, had until recently experienced as basic framework conditions for their lives. Similarly to the US, the wave of privatisation in

Europe first started with energy supply and in the telecommunications sector. Then, it included other service sectors, e.g. public transportation, the postal system, the public building sector, and finally the institutions of social security systems and the education sector. Always, unavoidable reforms of European welfare state provision and the crisis in public finances are mentioned as causes when laws and regulations are repealed (deregulation), liberalisation of markets (energy, telecommunications, water, health, education), privatisation of public enterprises (e.g. public hospitals, vocational schools, prisons, and parts of the military support services) or quasi-privatisation by "cross-border leasing" are introduced.

1. The Wave of Privatisation as a new Stage towards a Global Fight for Distribution

Privatisation seems to be a logical consequence of the interactions among labour market crisis, fiscal crisis of the state and demographic development. Although, none of these crises and tendencies is a totally new phenomenon. Already since the end of the "golden age of capitalism" in the mid 1970s, the slow-down of economic growth, with huge losses in state income from taxes and social security contributions on the one hand, and increasing state funding of mass unemployment on the other, was the case. The state debts greatly increased, because higher expenditures were credit financed. This development, which has lasted now for more than a quarter of a century, has made high income owners more rich. It was they who lent money to the state and who profited from the rise in real interest rates since the 1980s.

Therefore, it is worth questioning what specific developments of the late 1980s and 1990s have forced privatisation to come onto the European political agenda. The neoliberal ideology has proven a "self-fulfilling prophecy" which, by political decisions and (non-decisions), has become (in Europe and beyond) a powerful reality. A driving force of privatisation in the public provision of essential goods was the European market integration which established the institutional framework for market liberalisation; this opened new opportunities for investment and caused a flood of acquisitions and mergers. The market integration within Europe produced at the same time an increasing pressure on competition, which resulted in the fact that private corporations wanted to enlarge their market shares. In addition, there was the initial effect of the liberalisation of the telecommunications sector and its influence on the development of the internet: the liberalisation of this basic sector contributed to the technical and organisational developments of other industrial sectors which all went in the direction of trans-border expansion.

The main role in the privatisation of public institutions and enterprises as well as in the privatisation of other public goods is played by the deregulated, global financial markets. Everywhere in the world, real interest rates are above the real growth rates of GNP. At the same time, there is a worldwide crisis of overproduction in the consumer goods market, and the educational and health services gain importance in the aging societies of the industrial countries. From the view of money owners and capital owners, formerly less economic areas such as the pension and health insurance systems now promise to become profitable. Former public goods and services should therefore not be financed by taxes and social security contributions, but by interests and profits from the shares and bonds markets. In Marxian terms, this is a consequent enhancement of the so-called “Modernisation of Capital”. One can also describe this as a massive act of redistribution from the bottom to the top. One result of this form of financing indispensable goods and services is the impoverishment of the public finances: the tax base is eroded, because an ever increasing share of the positive surplus funds of the state budget goes to the pockets of holders of government bonds, while revenuessinks owing to illegal and criminal activities (high tax fraud) as well as dumping mechanisms among the “competitive states”

The pressure privatisation exerts on public infrastructures and social security systems results, on the one hand, from the greed for profit of investment capital, and on the other, reflecting this, from the impoverishment of public institutions.

Usually, the state can finance its welfare-oriented tasks only in two ways: first, by a sufficient increase in taxes, or, second, by issuing state bonds for owners of money income and other rich people. What is impossible, is to reduce taxes and start saving in the middle of an economic crisis, because the effort to reduce a deficit and provide, simultaneously, the same amount and quality of public goods and services as before, simply doesn’t work. In such a situation, privatisation seems to be an obvious, but only a short-term instrument for escaping misery.

In order to enhance privatisation and advance private investment – in the form of public-private partnerships or foreign direct investment (FDI) – private property rights have to be enacted.Latterly, WTO agreements have come into play, especially the TRIPs and GATS. TRIPs lays down a basic procedure for awarding property rights in respect of goods and manufactures that former generations would not have thought possible. The task of GATS is to make the liberalisation and deregulation introduced by the state irreversible. Even if the WTO insists „that the GATS does not require the privatisation or deregulation of any service”

(WTO 2001: 9), the link that exists between liberalisation and privatisation is an obvious one. While nothing in the text of the Agreement contains a "prescription to privatise", the mere fact that the goal of GATS is the opening up of markets in the services sector entails that public enterprises will eventually have to compete with private sector providers. This, in turn, increases pressure on public service providers to deliver services in the same manner as private ones do, resulting in a commercialisation of service provision, and, eventually, in privatisation of public providers. "While privatisation and liberalisation are not interchangeable terms, they are certainly fellow travellers" (Sinclair 2002: 74).

In short, privatisation is anything but an inherent necessity. Privatisation serves powerful interests. With the still on-going "interior occupation"?/"inneren Landnahme" (R. Luxemburg), nothing else is meant than a new step in a global distribution process. But, today it is not simply remuneration versus profits; it concerns indispensable goods that include a "decent life", protection of basic human rights, and sustainable human development.

2. The "neoliberal Constitutionalism" or: Privatisation of Public Goods as retrogression from the Right of Contract

Within the European welfare states, privatisation steamrolls at a frightening speed the result of the decommodification of wage labour achieved in the short "social-democratic century". Even if the degree of decommodification varies among the different European welfare systems, there remains a virtual cross-party consensus that, within social democracy, certain goods and services have to be excluded from public redistribution. The market mechanism is, in principle, not capable of satisfying the needs of all people; it is not capable of offering social and economic protection to everyone, and it cannot guarantee equal living opportunities. Therefore, it is impossible to answer the question of public or private provision of public goods only in terms of economic efficiency. Because these public goods are "essential goods" that are indispensable for a "decent living" on a historically given level. Questions regarding the provision, guaranteeing the accessibility and the protection of public goods are therefore inseparably bound in with the political order. To enable all people/citizens to have equal opportunities to realise individually chosen life plans, access to indispensable goods like water, a healthy environment, safe energy supply, good roads, an efficient school system or carefully controlled financial systems has to be assured. In modern societies, where structures of direct solidarity by family, relatives and the neighbourhood have almost ceased, redistribution systems of the welfare state count as indispensable goods. It is these that

determine whether all people/citizens are guaranteed physical and psychological health, knowledge, information or mobility. Against this background, indispensable goods and services had become social rights in the welfare states of the second half of the 20th century.

This is not only relevant for reasons of democratic theory, but also for practical democracy: if access and consumption of public goods guarantee "human security" (in the broad sense of the UNDP), and are established as enacted social rights, then this means that they are an outcome of compromises. At the same time they are a sign of lively democracy, in which all citizens make use of their "voices" (not only at elections). Simultaneously, the institutional foundation of human security in regard to social rights is directed by a regularising state which is normative and planned in its approach. This is a state which – contrary to the competitive state of today – does not take the position of a moderator in respect of the assertive and influential economic actors.

The law especially provides the rules for the establishment of powers and governance. This is done, on the one hand, by parliaments and courts, and, on the other , by forms of corporatist self-regulation. Types of self-regulation are, for example, the self-management of universities, and the, for a long time, successfully exported German apprenticeship rules (duale Berufsausbildung) or industrial relations. According to the three mentioned requirements, quantity and quality of public goods and services are principally open to democratic control. Because, within these requirements, citizens who know how to organise their interests may influence the direction of money supply (tax revenues and social security income). But, they also may influence the objectives, structures and expenditure of institutions which provide goods and services for health care, education, culture or other social services.

Certainly, the main opportunities for public participation do not mean that all citizens make use of them. And, public regulation, control and partial administration of public goods does not automatically guarantee a higher quality of these goods. An improper concentration of power is also not thus excluded, because such power can be misused – and many examples exist – for corrupt individual purposes by politicians and civil servants. What is decisive is that, as long as access to public goods is a social right, participation in the welfare state is, firstly, not reduced to the purchasing power of people, and, secondly, there are ways and means to realise this basic human right.

With neoliberal deregulation and privatisation since the mid 1990s, an historically important retrogression from legal to contractual arrangements has been reintroduced: i.e. if the provision, access and distribution of publicly indispensable goods (public, social, and human

security) is regulated through the competitive mechanisms of market economies, then control of activities is accomplished by contracts between and among the economic actors. Goods and services are thus exchanged by supply and demand. Governance and power are no longer legally regulated and bound, but are the outcome of the negotiating partners (even, if they are unequal partners) which have to be consistently secured, maintained and legitimised.

In liberal terms, control via contracts is superior to the hierarchically bureaucratic control of the state. Following this interpretation, freely negotiated contracts widen the opportunities for action and thus provide a fair exchange of different interests among the partners. They thus guarantee a greater flexibility for production and enable the dismantlement of "crusted" structures. All these arguments play an important role in the debate on "Public-Private-Partnership", i.e. everywhere, where a long-term co-operation between public and private actors for the fulfilment of public tasks combined with entrepreneurial risk sharing is concerned. But, the expected positive results of those contractual relations only show up when power distribution is symmetrical and when the contractual partners know all relevant framework conditions for a just balancing of interests. Therefore, the legislation of a social constitutional state limits the freedom of contract by protective laws in favour of the weaker partners; i.e. wherever asymmetrical power distribution shows up (e.g. labour law, tenant law).

Within the so-called "neoliberal Constitutionalism" (Stephen Gill), enforceable laws for indispensable goods and services are subject to disposition insofar as their production and partly their consumption are re-privatised or are transformed into club-goods. The loss of enforceable laws hollows out the citizenship status of the people and reduces them to economic citizens ("customers"). The homo politicus who has to communicate and organise with others for getting his/her rights is reduced to homo oeconomicus who has almost nothing in common with others. As a customer, a producer or investor he/she strives for his/her divergent interests, while, at the same time, the state withdraws from regulation, control and administration of public goods, which has severe consequences for quality. Good examples are the privatisation of the British railway system or the severe problems with energy supply in the US.

Even more important are the side-effects of deregulation and privatisation: with desolidarisation and depoliticisation, the democratic system is undermined. The more public

goods are provided by private suppliers, the more is the danger that it will result in an undersupply of socially and culturally high valued indispensable goods for the poorest people. In addition, in phases of economic (and ecological) crises one has to be aware of the spiral effect of cumulative depression. In times of crisis, this will also affect broad sections of the middle class who live in a situation of precarious wealth. One of the major outcomes of privatisation of public goods is that not only will those people who are excluded and marginalized from modern work, consumption and communication processes withdraw from political processes and active citizenship, but also those new economic elites who until recently maintained themselves quite well in the market with their monetary purchasing power. While some will react to their exclusion with defensiveness and resignation, possibly also with anti-democratic rebellion, others will regard former public goods as positional goods that promise a privileged status. In response to political interventions that may seek to tackle redistribution, they will thus defend their privileges by also employing aggressive action. Only where their own, partial interests are concerned, will these people act politically.

Thus, the most important out of three options available for articulation and realisation of interests in democratic societies, according to Albert Hirschman, will become meaningless: instead of using "voice" (opposition) to highlight the undersupply of public goods and so react politically, there remains for economic beings only the "exit" option (to take refuge in other suppliers) if they still want to satisfy their needs.

The supply via the market mechanism takes place by "buy-not buy" or "pay-not pay". This option is only available for those who have effective monetary purchasing power. For a democratic society, this difference is essential: Contrary to public service providers, private corporations are only accountable to their shareholders not the citizens of the countries they invest in. If a public service provider does not satisfy the needs of its customers, who, at the same time are its/the respective government's electorate, the next elections can change the situation, whereas if a private provider, even more so a foreign private provider, fails to satisfy its customers' needs it cannot be that easily held accountable by them.

2. Public vs. private social security or: The Chimera of Self-maintenance and efficient profits

Nonetheless, privatisation has in times of advancing individualisation and neoliberal globalisation a good ring to it. Privatisation is associated with freedom, efficiency, self-

maintenance. Public governance and control that are understood as synonymous with state regulation, on the other hand, are seen as force, waste of public funds, paternalism and control of the individual. Therefore, privatisation tendencies in all areas of life are bound up with an attiduninal, partially pragmatic “neoliberalism from beyond”. Against the discrete charm of the slogans “more personal responsibilities for the individual” and “less state”, there seems to be no argument. Although, it is generally recognised that the formula of “personal responsibility” only “covers the social responsibilities”/„soziale Verantwortungslosigkeit kaschiert“ (Butterwege). Because it is this that especially demands self-maintenance of those who are lacking the possibilities of personal and financial resources, and who are therefore dependent on handouts from the welfare state.

With regard to the social security systems, it is strongly to be doubted whether a (re)-privatisation will actually lead to an increase of self-maintenance, to a more efficient use of public funds and to an increase of individual freedom. The increase in individual self-determination emerges as a loss for the individual: in financial terms, it means a redirection of the costs at the expense of the work force in contingent socio-economic situations. Even those employees who make good money might feel an excessive financial demand upon the privatisation of insurances against all risks of life. This becomes clear when we look to the US: an ever increasing number of middle-age employees show up who neither have health insurance nor a pension scheme, and who are in risk of dying of curable illnesses. In addition, self-provided insurance against financial risks and deterioration in health, which might be affected by the financial and currency crises or by the long-term unemployment that are endemic in capitalistic societies, is simply impossible.

It cannot be said that privately funded insurance systems, in contrast to state-enforced systems, will lead to an increase in self- provision. This will especially be the case, because private providers of public goods do not only want their costs to be covered but also want to make a profit. Therefore, they do not have any other option than to exclude the bad risks in order to lower the costs wherever this is possible. In the mid-term, this results in two or in multi-category supply systems. People with bad risks will have to be prepared for big cuts in the quality of services. Privatisation thus contributes not only to a new and deeper social divergence, but also forces a cut-back in the quality of the public goods and services that remain in public responsibility, because they will be produced only for really “needy people” and thus need not to be of high quality: ”services for the poor are poor services“.

Only if public institutions and goods are organised as social rights and are available for all people through their citizenship status, i.e. are also available for well-to-do middle class people, might there be a pressure in favour of high standards and optimal supply.

That a private insurance system is not superior to a publicly funded system is to be seen in the partial privatisation of pension schemes. In allocation-financed insurance systems, e.g. the German system, insurance for pensions is still the biggest non-productive budget provision within the (deficit) secondary budget of the state. Therefore, the cuts in this budget provision are justified in Germany and other European countries by problems of public revenue and demographic development. What is not taken into account is that saving for own-risk within the limits of a private, capital-covered insurance scheme does not automatically arise from the so-called generation gap. In order to get payments for a claim in the form of bonds, there need to be enough people that earn the value of these bonds and consume it in the shape of goods and thus payback the stored value to the former contributors. The demographic factor will in the next decades (as well as today) remain a labour market problem: there are not enough contributors to social security systems. In addition, regarding risk distribution, private insurance cannot be successful within one generation alone. One reason is that, in such a system, social benefits will be smaller because of the small group of contributors, and the other is that dramatic financial and currency crises in the case of insolvencies and dramatic devaluations of funds may lead to a total loss of the benefits (vgl. Christen/Michel/Rätz 2003). But also in cases of prosperity it may happen that by pondering all alternative usages of the limited financial resources of private households, not only the poor but also well-off people may not pay into a pension scheme (as well as a healthinsurance scheme). In a case of emergency, they are then dependent upon (of course only) minimal public provision. Also the efficiency argument in favour of a privatisation is not convincing: on the one hand, the perceptible increase in efficiencies of privatised social security measures is caused by a cost redistribution at the expense of weaker market participants. On the other hand, increases in efficiencies are different according to time flow: the multiplication of administrative and management costs can become a disadvantage for competition. These higher costs because of privatisation will result in higher prices for the customers/clients. This is to be seen in the privatisation of the telecommunications sector. Still less plausible is the argument of the superior, economic efficiency of privatised social security systems when we take the economic side into account. As can be seen in the US, there is a trade-off between social expenditures and costs for public security. A high degree of social security for all citizens is

correlated with low costs for maintenance, control, punishment, and re-socialisation of prisoners. Complete social and human security for all citizens of a country heightens the motivation and the educational demands of all, including the qualified employees and thus contributes to indirect cultural and technical innovation, and thus increases the workers' productivity.

Privatisation of social security therefore encourages broader tendencies of privatisation of security and is thus to be seen in the context of the development that instead of social costs the costs of security increase. In terms of an economic theory for public goods, this trade-off leads to sub-optimal results. At least in the mid term a sharp cut-back of the positive external effects will result. The costs of the military and police in establishing public security for citizens within the area of state governance will exceed the expenditures for a rich and qualitatively high-valued mixture of public goods which should achieve security in a broader sense.

A high degree of publicly guaranteed socio-economic security for all citizens expects not only less private contributions for personal security, but also less costs for freedom for the individual. This can be explained with broad practices of exclusion which produce security for only a few people in the form of protection and defence mechanisms against "others": in the form of "gated communities", private hospitals, schools, sports arenas, shopping malls etc.. There is also a trade-off of exclusive (private) security and freedom rights.Exclusive: other people excluded from security systems serves the preservation of status for those included in the broadly secure areas, and thus serves as a frontier against those people who are kept socially down. By this means, formerly public goods (as e.g. health, education or security for life and property) become positional goods the quality of which depends on their limited access for consumption. On the other hand, the insecurity of those being excluded will increase by the fact that public funds are no longer available to supply security, and restoration of schools for those people who have to live in derelict areas and who are exposed to strong, repressive controls by the police. But, the freedom rights of those who are included are also endangered, because the higher measure of social and personal security demands a higher price in the shape of informal freedom: the privately protected citizen becomes a "transparent citizen" and his/her freedom of movement is thus thoroughly limited.

There does not exist any good argument for the privatisation of social security. The more complex human security as social rights becomes for allcitizens, the less is the force of solidarity felt as an intrusion on personal freedom and the more societal pressure increases for

maintaining a high quality of indispensable public goods. With the increase in complexity, citizens are willing to fund a solidarity system by taxes and social welfare contributions. This does not mean that there are no needs of reform in respect of our social welfare systems. It is obvious that we need a security system for all citizens (Bürgerversicherung), which will make the compulsory character of the social security system universal: a compulsory insurance scheme and contributions for all inhabitants of a country, not only for the workforce. In order to broaden the basis of social security systems there must not be, any longer, limitations for contributions. In all cases where the purchasing power of the people is lacking or limited, the state has to subsidise the contributions fully or partially. The debate then should only address the question of whether such a citizens' insurance scheme (Bürgerversicherung) should serve as basic funding or whether it should be thought of as preserving living standards or whether he/she should follow a different leitmotiv. The real and almost bizarre debate in Europe looks instead totally different. A closed defence of solidarity systems for social security need not overestimate the role of the state or make it unclear. Where public supply of socio-economic and human security are inefficient and organised in a patrimonial way, the use of rights of participation and control by citizens and civil society organisations could address the situation. How this will function is to be seen in the participatory budgets of Porto Alegre and other Latin American cities. Organisational forms of civil society which are "outside from market and state" can be seen as alternatives for publicly or privately organised supply of public goods. This will not in all, but in many, cases be a realistic solution. Health, for example, is not only dependent on expensive medical instruments, but can be arranged by more decent working and living conditions. Education as well can to a certain extent be organised by civil society institutions. Here, the "European Social Forum" and many other regional and local social fora and the self-education activities of the globalisation-critical movement are excellent examples. But, what about the resources and potentials of a "solidaristic economy" in the case of long-term unemployment, serious illnesses, down-grading of vocational qualifications as result of rationalisation or care and counselling for a growing number of elder people? Are societal institutions like family, relatives, friends and neighbourhood and other voluntary organisations no longer capable of those long-term obligations and thus, nowadays, more superficial and not very strong? It seems without doubt that the actors of civil society and social movements as third factors between state and private enterprises have an important contribution to make to new welfare institutions organised by citizens themselves. But all new examples of self-organisation within the framework of a "solidaristic economy" that address the access to and supply of public goods are a result of

destitution and not a voluntary event. Most of these social movements are lacking the financial strength to become an avant-garde anti-neoliberal movement. Besides, civil society movements as well are not far from the reality that they organise socio-economic security and other public goods as so-called “club-goods” and thus develop particularistic tendencies *against* other groups/clans/movements.

An undifferentiated anti-etatiism which accompanies the just criticism of governmentally introduced deregulation, liberalisation, and privatisation measures must not be confused with the necessary but difficult task of achieving a solidaristic economy and a human society. When the first signs of a solidaristic economy become manifest and are without a “back-up” from central government, and thus are excluded from access to public goods, i.e. without a framework of social democracy in a constitutional society, they will not live for long.