

THE PUBLIC-PRIVATE PROBLEM: SOME TRADE UNION QUESTIONS AND PRACTICAL ISSUES

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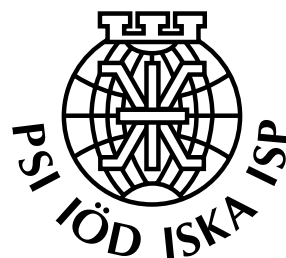


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Education International (EI) and Public Services International (PSI) have agreed to publish jointly in areas of common concern and we have identified a number of areas where future publications could be developed. PSI is the international federation of public sector trade unions, EI the international federation of workers in education.

This is one in the series Policy, practice, programme. The papers in this series are meant to serve several purposes: to help trade unionists understand some of the issues; to enable trade union educators to run short sessions on education and public sector issues with their members; to provide material for union leaders writing speeches or informational material for wider audiences; and for distribution to a range of interested people. Further copies can be obtained from:

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1. The baseline

This paper arises from discussions at the PSI Public Sector Working Group (PSWG) about what can/should be done when public sector trade unions have either lost an initial struggle over privatisation or when steps have been taken by a government which have resulted in a, perhaps new, public service landing up in private hands. That this is a problem area is obvious: yet, no matter how strong a union and its principles are, it will continue to be a problem if a union does not really know what it wants to achieve and has a strategy for achieving that goal.

This paper is not a full position paper from PSI on the role of the state. It is simply a recognition of the fact that developments have taken place in some countries which demand a strategic response from public sector trade unions. This paper should be read in conjunction with a number of other PSI policy papers which do elaborate the full PSI position.¹

1.1 QUALITY SERVICES

Quality is a first. Public sector unions are setting themselves up for defeat if they do not have and be seen to have quality services as an essential criterion in the first rank of priorities. We must be clear about what we mean by 'quality'. For PSI, it is an article of faith that quality public services are a human right and that such services can be delivered only by quality workers (well-trained and imbued with the public sector ethos), with quality working conditions and with resources which enable users to expect quality every time. PSI and its affiliates must emphasise quality aspects of public services. Depending on the answers to quality questions in each service, sector or country – over which users may want much say – the possible laws and regulations that we might impose on public and/or private service providers will differ if we are to deliver quality services. The proposed PSI global campaign on quality public services to be launched at the PSI Congress in 2002 should help PSI and its affiliates to enrich our understanding of the full implications, including strategic, of quality public services.

As noted, adequate resources are essential for the delivery of quality public services. If the services we are discussing are, as claimed, a human right, then govern-

ments surely have a responsibility to provide funds adequate for their effective delivery, no matter the form of delivery.

By implication, this means that PSI accepts that some services will be seen by some countries as more **essentially** 'public services' in terms of delivery. This should not be taken to imply that PSI and its affiliates accept the notion that there are services whose essential nature is such that the workers providing those services may be legitimately deprived of any rights of freedom of association or collective bargaining.

In the final analysis, it is the national state which must be the guarantor of the services under discussion. However, it is accepted in many countries that many public services are best designed, funded and delivered at and by the local government authorities, with the close involvement of front-line workers and service users. The central state, however, has a responsibility to ensure that regional disparities do not result in grossly unequal local funding and provision. There may be a case in many countries for the central state to engage in resource redistribution from rich to poor communities. The central state may also set basic standards below which no local government can fall in delivering certain services. In particular, when a central government institutes a programme of decentralisation (from central to local government design and delivery of services), it must ensure that any transfer of powers and responsibilities to the local level is accompanied by an equivalent transfer of the resources formerly used for these services. Beyond that, it is up to each country to decide for itself which public authorities are responsible for service design, funding and delivery.

1.2 PUBLIC VERSUS STATE

A strict meaning of 'state' is that it covers all of the organs and superstructures of the public authorities, at all levels. However, for most people, it generally means only the central/national government and its direct agents/agencies. So, any discussion of public services which rests on the role of the state results, for some unions, in denying the essential role of local and regional governments. As recent debates on World Bank and World Trade Organisation policies have shown, many local governments see the central state as the enemy/problem, not as a fellow state actor.

Further, even at the local level, many non-profit organisations as well as religious and family/tribal institutions (such as Iwi Authorities in New Zealand) have had an historical role in providing services for specific groups in the population or for dependent people. The rise of the modern welfare state in these cases has the potential to replace these older bodies. Therefore, there are cases where public sector trade unions are happy to accept that service delivery may well involve a partnership with such bodies, underpinned by appropriate local government funding and regulatory oversight.

In some countries, especially in much of Europe, many essential public services, such as the administration of unemployment, retirement and other funds/programmes, are handled by the social partners, with some state oversight.

Many urban programmes to rejuvenate or salvage slums and squatter settlements rely on partnerships between the municipal government and community associations which are, of course, strictly, private, voluntary bodies.

On the other hand, especially where decentralisation has been implemented in a corrupt manner, public services (and especially access to their funds) have often been commandeered by local elites, especially corporate actors. In these cases, what appears to be a public service is anything but that.

For these reasons, some find it useful to distinguish between 'state' and 'public' and, further, to accept that 'public' may incorporate some elements of the private (mainly non-profit) sector in its administration. Service users, especially in a community where religious, family or tribal institutions are important but democratically transparent, may well be happy to have them involved in public services. In other states, there is, of course, a strict separation between these institutions and the state. Public sector unions obviously need to be sensitive to such national or local values and accommodate them in union positions, avoiding purist approaches.

1.3 IDEOLOGY

Let's be clear about one of the basics. PSI is against all ideologically driven privatisation. Some affiliates are in opposition to every privatisation they have encountered, while others are not very alarmed by some of the privatisation initiatives they've seen in their countries –

mainly transition economies. The PSI position is one which gives a unifying base to these different experiences. We have, through the work of the PSWG, identified some tentative tests as to when privatisation might be something a union might choose to live with or no longer try to reverse. In essence, the real test is whether the proposed privatisation is for some reason one that has legitimacy within the country concerned or if it is just an example of ideologically driven decision making.

We have some sense of how to measure a proposed or previous privatisation, in other words.

However, we don't have any existing policy or practical guides as to how to evaluate or respond to some other difficult issues. These issues all have to do with a situation where simply being opposed to privatisation isn't a very helpful strategy.

First, there are situations where a service isn't offered at all within a country but should be and the public authority for some legitimate reason can't afford the costs involved in starting the service. (Simply choosing not to develop a sufficient tax base would not qualify as a legitimate reason.)

Second, there are cases where the tests we have developed might indicate that a particular privatisation isn't an example of purely ideological decision making and might not appear to be an automatically bad thing in that set of circumstances - possibly in a former east bloc country, for example. Our tests against which we would then recommend that the privatisation be measured could certainly be more fleshed out and could provide more guidance to affiliates than our preliminary work on them has provided.

Third, we have situations where the battle against a specific privatisation has been unsuccessful, and we need to decide if our opposition should be ongoing or if we are going to fight for controls and limitations over the private service delivery. When governments succeed in privatising a public service over the objections of public sector unions, the usual assumption is that the goal of the union remains that of bringing the service back into the public fold as soon as possible. However, there is often an at least tacit acknowledgement that this objective will not realistically be met. It may well be that the objective of bringing the service back into public hands is not even a feasible or laudable goal in all cases – sometimes it is impossible to unscramble the omelette.

Yet, it may also be that, by failing to re-examine the question of whether a service should be brought back into the public sector, we are losing our influence on the service as it is now being delivered or becoming out of touch with reality.

It should be noted that in an earlier PSI paper, *Organising Public Sector Workers*, we called for PSI affiliates to (continue to) organise the workers affected by privatisation. Yet that very organisation of those workers into unions can limit the chances of bringing a service back into the public sector since they may well wish to retain what for them is now the status quo. Sometimes (not often), that new status quo has better pay and conditions than applied in the former public sector operation.

In effect, all these are limits on a purely anti-privatisation position. The straight 'anti' position doesn't always provide much real direction or assistance in dealing with the less straightforward cases.

We, of course, need to work within a framework that is not one of giving up on fighting all ideological privatisation.

2. Post-privatisation Questions

PSI has published a number of resources which promote the role of the public sector and oppose all ideological privatisation. This paper will not repeat those arguments and strategies; rather, its purpose is to ask what you can or must do if you lose a particular anti-privatisation campaign.

We want to begin a discussion about the most reasonable criteria for unions to use in judging whether particular privatisations are effectively irreversible and, if so, what conditions we would then put on the present service delivery arrangements.

In situations such as reforms to Central and Eastern European health systems, it has often been difficult to see at what stage a 'reform' became a privatisation and the union or community only realises part-way into such a process that a point of no return has been reached. Should a union defend the newly corporatised unit from privatisation, even if that unit is operating on a market-oriented basis?

One way to phrase the overall questions for privatised or outsourced services would be as follows:

- a) Is it *realistic* to campaign for the return of the service to the public sector?
- b) Is it *better for the public and/or the service* if it is returned to the public sector? In answering this question, one has to know whether 'the public' is really homogeneous or whether there are significant inequalities which make present user fees unfair/impossible.
- c) If the service is not to be returned to the public sector, *what alternative requirements should we advocate* to ensure the service is delivered in the best interests of the public and the workers delivering the service?

In determining whether it is possible and/or desirable to reverse an earlier decision to privatise or outsource, we must have a good grasp of all the information we have **as well as knowing what kind of information we should but do not yet have** (see below). Otherwise, it is unlikely that any campaign, after privatisation or outsourcing, can be well grounded. Desirability in this case is not just the narrow question of: *What do we want?* but must encompass issues of quality services, quality employment, high standards, gender perspectives, etc.

On the question of the practicality of a campaign to de-privatise, for example, we might ask the following:

1. Is there any evidence that such a campaign would have any political support/viability or are we wasting workers' time, energy and expectations? Are we risking the credibility of the union?
2. Would the workers most directly affected support a move to de-privatise the service or are they more satisfied with their private sector employer?
3. Is there evidence of false expectations being raised (about investment, growth, competition, quality levels etc.) when the government put out the tender to privatise the service? Do people feel angry enough about this to support the move back to the public sector?
4. Would friendly political parties or voters agree that bringing the service into public hands would restore a necessary active role for the state?
5. Is the return of the service to the public sector economically viable? Is the capital available to bring the service back into the public fold? Is using

the available capital for this purpose the top priority?

6. Has the (new) private owner/provider so dismantled/merged any previous operation that it is not possible to identify the previous unit(s)/workforce? In other words, is there something still identifiable as an entity which could be re-nationalised or brought back into public ownership and control?
7. Do we have a sufficient understanding of subcontracting behaviour and the competitive nature of the current market? Do we have data on what these factors have meant for wages, conditions of work, accidents rates, etc.²
8. If our goal is quality public services, as it must be, what should be our approach to this particular service?

3. The three different scenarios

To return to the earlier point about there being different positions from where these questions might arise. We identified three different cases:

- 1 The case where what is being talked about is a service totally new to the country or municipality concerned and the public authorities have opted for private provision from the outset or now want to improve an existing service.
- 1 The case where there is some debate as to whether the service was originally correctly located in the public sector – often services in transition economies.
- 1 The more typical case where a normal public service in a mixed economy has been privatised against the wishes of the users and/or the workers concerned.

However, it should be noted that, although these three scenarios may be useful for strategic analysis for unions, they are not discrete or unrelated. Although countries may currently fall into one or another of these categories, all countries share a common global interest in neo-liberal globalisation. Multinational enterprises and the international financial institutions are all pursuing policies which place corporate values ahead of all others.

Many governments, willingly or not, find themselves following such policies. So what is said below about transition countries, for example, does not mean that PSI accepts some inevitability about some future path of economic development. Unions or communities in each category have a vested interest in helping those in other categories to withstand neo-liberal attacks and every incentive to seek knowledge and assistance from those in other categories.

Let us take each of the three scenarios in turn and see how we might deal with the question of whether to campaign for the service to be returned or converted into a public service.

3.1 NEW SERVICES

Occasionally, new technology or new social problems may give rise to the possibility of creating a new service over which there could be debate as to whether it should be a public service or delivered by the private sector. Access to Internet services is an example.

Typically, however, the issue is more a case of a developing country which needs to develop and deliver quite traditional public services such as water or a health clinic which have not been available to, for example, a rural or squatter settlement population. Especially when the country concerned is a client of the World Bank, it may be that any Bank loan will be conditional on the service being developed with some or complete private sector participation/control. Even in cases where the Bank is not involved, it may be that the government claims, validly or not, that it simply does not have the funds or access to loan money which would allow for a public sector option. We will return to the question of fiscal problems below but suffice it to say here that it is a rare 'poor' country where there is not a debate about whether the health service should get that 'spare' \$50 000 or whether it should be the military or the Ministerial car pool!

It has been claimed, for example, that South Africa fits this model: that the devastation of apartheid has left so much of the population without essential services and infrastructure that it would not be feasible for the government to borrow money to meet all the needs within a reasonable timeframe. It is said that the debt level would be such that South Africa could not sustain the debt repayments. Yet, to stay within the limits of

sustainable debt repayment, it is claimed that to develop all of the services under public ownership and control and with public funds would take 60 years.

If these claims are true, one does not have to be an ideologue of privatisation to argue that, in this case, there has to be some role for private sector finance.

Some of the issues which arise in these cases might include:

1. Is there reliable protection against a private monopolist dictating prices? What kind of regulatory regime has been put in place? Does it work for users? For example, are prices controlled? Are complaints followed up? Do guidelines exist for delivery of services? Does a formal regulatory structure exist made up of representatives from all parts of society, including unions and consumer organisations?
2. Do the prices paid by the users reflect the costs of the service plus reasonable profits? Are some prices subsidized? If so, whom does this subsidy benefit? In fact, do unions or users even have access to price data to enable debate on these questions?
3. What have been the costs of control systems such as health and safety inspection established/maintained by the public authorities in order to monitor the performance of the task by the private entrepreneur?
4. What tasks have been left to the public authorities (and what are their long-term costs) which the private enterprise is not expected to undertake? It is especially important to know whether contracts have been clear about what is to happen in the case of unexpected crises such as natural disasters or civil emergencies and whether it is clear what these terms mean.
5. Have clear and proven advantages or disadvantages, short and long term, accrued to taxpayers and users from the decision to privatise/outsource? Are the provider's short-term aims (namely profits) disadvantaging the long-term benefits of the service to the public?
6. Does the private entrepreneur protect users against any possible errors?

In some cases, we can be much more categorical: public service delivery may be the **unique** answer in

some locations – such as scattered populations which need universal access. Just because PSI needs to be seen to have reasonable arguments which are robust and defensible does not preclude us saying in some cases: *There is simply no role for the private sector in this operation.*

3.2 TRANSITION ECONOMIES

In the case of the transition economies of central and eastern Europe, there probably was a strong case for being uncertain about what should officially be in the public sector once the move to a (mixed) market economy had started. Stereotypically, people point to the fact that the state owned hairdresser salons and bakeries as well as all kinds of manufacturing plants which are normally expected to operate under market conditions in other parts of the world. In this case, it would have been difficult to argue against privatisation of some parts of the economy.

That, of course, does not begin to address the issue of how the privatisation process was carried out in the transition economies and that is not the focus of this paper. The question for this paper is: can one identify a set of criteria by which to judge whether some of the privatisation was inappropriate and, where the evidence is that there are such examples, how does one determine whether to campaign for returning the activity to public hands.

All of the questions listed above under the 'New services' heading apply here as well, perhaps slightly amended but additional questions might include:

1. Have alterations in past accountability arrangements to central or local government and to users had demonstrable benefits or detriments for taxpayers and users?
2. Is there evidence that, after privatisation/outourcing, the public purse has had to keep injecting funds into the service, contrary to earlier assurances that 'the new provider is responsible for all costs'?
3. Has there been any effect on local democracy in cases where there used to be political or citizen control over a municipal service?
4. Has the right of all citizens to receive the former level and quality of service under equal conditions been safeguarded? Have investment levels been maintained to ensure the continuity of service

levels and quality for the future? The interests of the community and the workers must go hand in hand and must be considered no less than commercial interests.

5. Does the private entrepreneur protect users against any possible errors? The liability of the private enterprise should be equal to the liability previously accepted by the public authorities.
6. Have the accumulated knowledge and skills of public institutions which used to provide these services been lost?
7. Does the public have fully disclosed information showing whether the true costs to the public of a privatisation/outsourcing are less/more than the long-term gains? Such costs might, for example, include the costs of any resulting unemployment, the costs of all retrenchments and redundancies and the costs of resulting monopolies.
8. Has the new owner used its profits exclusively for providing the privatised service or for other purposes? If the latter, are these social purposes? Does the company enjoy popular support?
9. Has supply (e.g. electricity, telecommunications and transportation) continued to cover the former geographical area or former service recipients? If former markets have been split, has this opened the service to competition and yet more possible privatisations?
10. Have the conditions of employment of staff, including employment levels, been jeopardised, maintained or improved? Have cuts in costs had other effects, such as an increase in work-place accidents? Have there been differential impacts on some groups of workers such as women, people with disabilities, immigrants, ethnic minorities, etc?
11. Has there been an increased or steady level of unionisation in the workforce or have some workers been deprived of collective bargaining and union rights? Have members been lost through restructuring layoffs as costs are cut to favour profits?
12. If there was a pre-privatisation guarantee of no significant loss of monetary, leave, service or other entitlements through any job loss or proposed financial compensation to workers, has this

been honoured? (See the paragraph following these questions for further comments on this matter.)

13. Is there evidence to show that the population understands and accepts or rejects the new arrangements (or is it indifferent)?

Those unions which have collective bargaining rights should have some capacity to affect the outcome of some of the questions raised above, especially question 12. They may be able to negotiate a transfer agreement which covers either the specific workers in the service concerned or all workers involved in any privatisation or outsourcing change of employment. Unions which have negotiated such agreements are asked to send copies to the PSI Secretariat as a resource for other affiliates. In the case of the European Union, of course, the Acquired Rights Directive has determined as a matter of EU law that all workers who are transferred through such programmes must retain all of their existing pay, rights and conditions. In other words, the EU has said that privatisation should show its worth through genuine efficiency and productivity gains, not through exploiting workers.

3.3 TYPICAL PRIVATISATION

This is the most frequent case facing PSI affiliates. Not surprisingly, it is therefore the case where the most well developed questions have been listed. On the question of the desirability of returning a service to the public sector, the questions/issues which need addressing are essentially the same as those above for the previous two cases, plus, perhaps, four others:

1. The first is not so much for an affiliate's own domestic interests but has a more global impact. Can we compare what an OECD country's public enterprises do at home with what they do abroad – such as EDF in France and elsewhere? Such public enterprises, which may have perfectly good records at home in terms of the way they treat workers and deal with unions, may take an entirely different approach abroad. Similarly, we must expose government hypocrisy which espouses workers' rights but does not consult its own workers on these matters. We must insist on governments having a negotiated plan for how it intends to handle privatisation issues.

2. Many workers enjoy their new privatised operation. They may have rights and entitlements which they did not enjoy in the public sector. Where this is the case, will a union win or gain by trying to bring these workers and their agency/unit back into the public sector? Will the union win or lose, amongst members or users, from any attempts to shut down a privatised operation? Have the gains made by the 'privatisation survivors' justified the losses of those who lost their jobs?
3. It would be useful to look at countries such as New Zealand where there has been some revisiting of neo-liberal policies under a new Labour government (as opposed to New Labour!). How does a government which wants to revisit the past deal with public sector unions? How do we deal with them? Is our aim to go back to 'the good old days' or do we need to re-invent the former operation?
4. Does the union have an understanding of regulatory issues? Do we know what regulations currently exist in the sector or service concerned? Do we know whether this is adequate for the purpose? Do we know what regulatory structures should exist?

4. General considerations

It is essential that unions are strong if they are to deal with these issues. Unions must move away from a 'wages and conditions only' approach if they are to make progress in these struggles.

However, even if unions are strong and even if the answer to all of the questions raised above indicate that a fresh campaign is feasible, there are some general issues which public sector unions need to consider in doing this kind of work. Some of the questions raised below may not be capable of any generally applicable answers. For each of the matters raised below, affiliates which have had experience in dealing with the issue should inform the PSI secretariat either of that experience or a contact source who can supply such information.

If there is no worker or user support for de-privatisation, would co-operative or mutual society

options be supported or are other collective approaches possible? Some unions consider that a worker buy-out of the operation is better than private ownership whilst others see that as simply another form of private ownership.

It is necessary to identify grey areas – sectors/services which are public in some countries and private in others. Some countries make the retailing of alcohol a state monopoly whilst others see no need for such a policy. It is unlikely that concerted PSI support could be won around such grey areas even if other affiliates may give symbolic support for a union campaigning on such an issue.

In the light of the current arrangements, is there a proven need for the State to provide this service? In most countries, it is possible to trace the history of how a service was provided over the decades. Sometimes the state moves immediately into the provision of a new service which technology or public demand makes possible. In other cases, the state has only stepped in where there has been inequitable or catastrophic market failure – such as with banks and insurance companies in the early 20th century. What is seen as appropriate for the state in one era may not be so seen a few decades later. Is it possible to compare service development between similar countries?

There is a variety of ways of delivering quality public services: nationally, regionally or through municipal governments; or, even within a national system, the amount of decentralisation and local autonomy which the central state allows can make for very different outcomes and service cultures. Is 'our way' or 'the old way' the only and best way of achieving quality service outcomes?

Are we always clear about where management stands on these issues? There are cases where management, either for principled or self-interest reasons, opposes a government proposal and can be an ally of workers. Alternatively, it can be management itself which is driving the agenda and using its insider position to engineer changes which, under privatisation, will lead to advantages for management. Many workers can tell stories of public sector managers who 'resigned' on a Friday and then came back on Monday as the new private sector managers of an outsourced operation on a doubled salary.

Similarly, it is not always privatisation or outsourcing themselves which threaten workers or service users. In a paper prepared for an OECD-APEC Workshop on Regulatory Reform in Beijing in September 2001, David Parker of the OECD argued that privatisation is often not just the wrong response to necessary public sector reform but that it may be irrelevant and harmful. If a government simply privatises a state monopoly, it has done nothing except transfer monopoly rights to the private sector. Further, he argues that doing this but establishing a regulatory regime may be either a chimera or even counterproductive. Instead, Parker argues, it is important for government to get the structure of the service/sector right in the first place. Without necessarily agreeing with the rest of his message, PSI affiliates may need to recognise that restructuring may be the most dangerous part of a public sector reform process. It is here that cost centres, competition laws, unbundling of services and other elements of reform can have significant impacts on job numbers, pay, conditions, union negotiating strategies/capacity, etc. This is not to argue against restructuring proposals but to signal the need to see them in context.

Is the issue one of privatisation versus its alternatives or globalisation and its effects? In the case of Africa, perhaps we should be looking at an African Marshall Plan.

We should capitalise on the questioning of liberalisation and regulatory reform which is occurring at bodies such as the OECD. Regulatory regimes must address the concerns of workers and users. Campaign material on these issues needs to look at the economics of some of the questions it raises as well as at regulatory regimes: our theoretical approaches must be grounded in reality. Capital is essential and there may be more than one solution to using it. Where do these issues fit into general government budgetary policies?

Unions must, in such campaigns, explore the relationship between deficits, IFI (International Financial Institutions) lending policies, national sovereignty, the state of public services and the working conditions of workers. For example, the way that IFIs will blackmail some investment-hungry governments into privatisation or into anti-worker policies must be explored. Were there strong pressures from financial organisa-

tions to privatise or outsource in the case of any services subject to a union campaign? Did this have any effect on national external debt levels? Is a reversal of the policy likely to involve a fight with the World Bank or the IMF?

Many unions do need to become more budget-literate. It is easy to be simplistic about the government's ability to get/print more money or to shift priorities. The union position may be correct or at least debatable; but if it simply lacks credibility then it harms the union and its members. Unions may need to rely on their national trade union centre, to share research resources or to use friendly academics to become budget-literate. It may be the case that the government is simply 'broke'. We can do the obvious: analyse whether the tax-base is too narrow (is it only public sector workers who pay income tax; does business pay – enough?) Can we prove waste and inefficiencies in some public spending? Is there obvious corruption? Are there subsidies to sectors of business or for the wealthy that can be eliminated? Could the government resist some World Bank policies if it allied itself with civil society more? Is the government doing enough to assist informal workers to become productive, sustainable taxpayers? But PSI will not be as helpful here as in other matters because on your budget you need the knowledge about your country. Only you have that.

Campaigns should highlight the role of multinational enterprises, which are becoming multi-utility operations in many cases. Campaigns which focus on such MNEs may well need to utilise the resources of the Public Services International Research Unit at Greenwich University in the UK, which holds enormous amounts of MNE material at the disposal of PSI affiliates. The Hans Böckler Foundation has done a lot of work to help Ver.di, the PSI German affiliate, to answer questions such as: "How do we find rules for fair competition between public and private enterprises? How can we organise public services in a way the customers would appreciate? How can we organise lifelong learning in public services? If we want to ensure effective participation for public servants in the development processes shaking the public sector, what kind of participation is useful in which situation? What different types of modernization exist on the municipal and the federal level?". Especially where

MNEs have won privatised contracts, it might be useful to analyse collective bargaining outcomes in sectors where trade unions have traditionally been strong (such as the electricity sector) compared with those where they have been weaker (such as residential homecare).

Can we be sure that interests of workers are always identical with those of users? Different views on access and distribution might need further work. The other PSI position papers referred to earlier in this paper also remind us of the necessity of (as well as suggesting some strategies for) achieving full social dialogue on what public services we want in our country and how we want them delivered. Public services must be defined by the public and the public's representatives together.

Privatisation is not the same everywhere and neither is there a universal solution to public sector problems.

NOTES

¹ These policy papers, all in the *PSI Policy, Practice Programme* series include:

- *PSI policy and strategy on the role of the public sector*
- *A public sector alternative strategy*
- *Organising public sector workers*
- *Public services in a globalised economy*
- *Improving the effectiveness of the public sector: if not us, who?*
- *Stop the World? No. Shape it!*

² In this respect, it will be important for PSI and its affiliates to study the implications of the October 2001 ILO Joint Meeting on the Impact of Decentralization and Privatization on Municipal Services. The conclusions of this meeting, attached as an Appendix to this paper, contain a number of wise caveats about both decentralisation and privatisation. It should be recognised that the concerns about the impacts of wrong-headed approaches to these programmes were signed by a number of governments and private employers.

Appendix

CONCLUSIONS OF THE ILO JOINT MEETING ON THE IMPACT OF DECENTRALIZATION AND PRIVATIZATION ON MUNICIPAL SERVICES. GENEVA, 15-19 OCTOBER 2001

The Joint Meeting on the Impact of Decentralization and Privatization on Municipal Services, Having met in Geneva from 15 to 19 October 2001, adopts this nineteenth day of November 2001 the following conclusions*:

GENERAL CONSIDERATIONS

1. Public service reforms at all levels, including decentralization and privatization, have to:

- provide access to safe, reliable and affordable public services;
- facilitate sustainable local economic and social development, which enhances the goal of full employment and the alleviation of poverty;
- provide universal and equitable access to all necessary public services to fulfil basic human needs;
- provide a safe and healthy environment;
- improve and enhance democracy and security of human rights.

Public service reforms must be guided by the following basic principles:

- accountability, transparency and openness of government policies and actions, specifically including structures and procedures to ensure the integrity of government's programmes and procurement;
- provision of new or better public services;
- the importance of maintaining and creating good working conditions and the application of core labour standards should be adhered to during the reform process for morale and performance of the public service and municipal workers;
- social dialogue with all relevant stakeholders as a prerequisite for designing, implementing and evaluating decentralization and privatization;
- adequate resources and training to enhance informed decision-making;

- valuing the diversity of different communities and cultures;
- to ensure the equality of opportunity for all.

DECENTRALIZATION AND PRIVATIZATION

2. Decentralization and privatization are two approaches being used to introduce change into public services in a variety of forms and ways. The two approaches are distinct, but they may complement or be pursued independently from each other. Decentralization and privatization are not ends in themselves, but are viewed by some to be the means to help fulfil the responsibility of governments to deliver quality public services to their citizens. All forms of reforming and improving public services should be examined in the context of the basic guiding principles. A comprehensive approach is needed to explore the impact of various options and ensure that broad social objectives are met and that one service is not improved to the undue detriment of another.

3. When considering or introducing decentralization and privatization, various means should be explored and distinctions should be made between the various ways to implement them. Decentralization may include political, administrative and financial decentralization. Privatization may take various forms: contracting out, internal market arrangements, user fees, sales of assets and public-private partnerships or a transfer to the private sector of ownership, management, finance or control. Moreover, account has to be taken of the stage of economic development of countries and the situation of human needs in countries. Neither of the two approaches of introducing change free governments from their responsibility to ensure universal access to public services on a fair and equitable basis.

EFFICIENCY AND QUALITY OF MUNICIPAL SERVICES

4. Available evidence suggests that there is no necessary correlation between efficiency and quality of public services and decentralization and privatization. In certain cases, improvements in quality and efficiency of public services have been achieved. The cases where

these reforms have been successful have involved extensive social dialogue, transparency, adequate supervisory frameworks, open contracts and arrangements where employees have been protected. In other cases these reforms have led to reductions in the quality of public services and even increased costs. This observation is not limited to privatization but applies also to decentralization where the municipalities are not sufficiently provided with financial and human resources for the delivery of services. Financial gains also often do not translate in better conditions for the users of these municipal services which can be particularly critical in developing countries and for the poorer sections of the population.

DECENT WORK IN RELATION TO DECENTRALIZATION AND PRIVATIZATION

5. The different ways in which decentralization and privatization are pursued may also impact on decent work. This could occur where the workforce is made redundant, workload and work intensity are increased, income levels, pension rights and health and other benefits are reduced or payments of salaries are received on an irregular basis. In this respect, there are particular problems for newly engaged workers. Gender equality may additionally be affected by such reforms, including reduced employment and pay for women and more casual working arrangements. Gender aspects of decent work should be given special attention when evaluating the consequences of decentralization and privatization. On the other hand, there are cases of well-designed and carefully implemented processes of decentralization or privatization with effective social dialogue and where the goal of decent work has been better achieved than before.

THE ROLE OF SOCIAL DIALOGUE IN THE FRAMEWORK OF DECENTRALIZATION AND PRIVATIZATION

6. Social dialogue is an essential prerequisite for designing, implementing and evaluating decentralization and privatization. Social dialogue is not a single event but a continuous process of consultation and/or negotiation among employers both public and private and workers'

representatives⁽¹⁾ which does not end when the reform is implemented. This process may be time-consuming and long, but it is rewarded by sustainable results and by ownership of all stakeholders in the decisions taken. The process may take place in several stages and should be supported by an external dialogue between the municipality, as the responsible government structure, and the citizens and users.

7. When designing and implementing social dialogue, it should be made clear to all stakeholders whether a process of consultation or of negotiation is intended. Where the negotiation process results in an agreement, it should be enforced under relevant legal provisions. When external expertise and advice is required, all parties should, consistent with applicable procurement rules, be involved in the selection of the adviser and have equal access to such advice and adviser. Education and training is required for all stakeholders participating in the process.

REGULATION

8. Public services, whether provided by a public or a private provider, should be governed by a regulatory framework consistent with the basic guiding principles. Such a framework is required at the national, regional and local levels. It should provide for consultation and where applicable agreements between the social partners as well as agreements between the municipality and the service providers and deal with quality, access and safety standards for the services. In order for the enforcement of regulations to be effective, it requires strong regulatory institutions. However, a balance should be maintained between the extent of regulation and flexibility for innovation.

IMPACT ON EMPLOYMENT

9. The impact of decentralization and privatization needs to be examined in terms of its consequences for employment. It has been noted that during decentralization, there is normally a shift of employment within the public sector and less frequently a reduction of overall employment levels. In many cases of privatization, as a result of the introduction of new technologies and managerial

approaches, overall employment levels have declined and public employees have moved out of the public sector. Statistical data need to reflect the employment situation in the long term, since privatization may or may not result in an overall increase of jobs for new services. In both processes of decentralization and privatization, workers should not be considered as a simple cost factor, since they make an essential contribution to providing necessary public services and they are an asset to the introduction and management of change in the public service.

WORKING CONDITIONS AND TERMS OF EMPLOYMENT

10. While it is the responsibility of municipalities to provide high-quality and efficient services to their citizens, the creation of decent work for those who provide these services should be achieved at the same time. However, there is evidence that working conditions and terms of employment have not always met these standards. Many municipalities do not receive adequate financial resources to fulfil their mandate and hence try to save on public expenditure by contracting out their services. Since most public services are highly labour-intensive, public and private employers often seek to reduce costs, and in particular labour costs. In many cases of privatization, this has affected working conditions negatively through, for instance, reduced pay, increased working hours, shorter annual leave, reduced pension schemes, increase in part-time working and less security in employment contracts. Newly employed workers often face worse conditions than transferred staff. Transfer of rights agreements and policies are recommended. Workers in public services should be guaranteed fundamental principles and rights at work, in particular freedom of association and collective bargaining. Consideration should be given to the following relevant labour standards: Conventions, Nos. 94, 151 and 154 ⁽²⁾ and their accompanying Recommendations, whether workers are employed by public or private employers. Retrenchments should be avoided as far as possible and should be a measure of last resort. Unavoidable job losses should be mitigated by retraining and redeployment schemes.

ILO ACTION

11. The ILO should:

1. promote social dialogue at all levels in the context of public service reform, including where decentralization and privatization take place or are envisaged. To that end, it should:
 - a. in consultation with the tripartite constituents, design and implement an action programme, including subregional, regional and national activities, dedicated to this task,
 - b. take all necessary steps to encourage other international organizations, and especially the Bretton Woods institutions, to understand the relationship between social dialogue and their declared objectives in public service reform and to redesign their activities associated with public service reform accordingly,
 - c. develop educational and advisory materials on this subject and make these available to social partners, member governments and international organizations, and
 - d. increase resources dedicated to advisory services and expand its assistance to other international institutions and governments in employing social dialogue as a tool of public service reform and to operationalize lessons of ILO research on public service reform; and
2. develop a programme of research, preferably in partnership with other international organizations, to provide information that would encourage governments, social partners and other international organizations more effectively to:
 - a. identify and consider all possible approaches to the reform of municipal services to enable them to achieve the goals set out in point (b) below,
 - b. evaluate the factors in the reforms that contribute positively to the efficiency and quality of services, the security, quality and terms of employment of workers, compliance with ILO standards, eradication of corruption, the promotion of high standards of professional ethics and gender equality, and contribute to sustainable development,
 - c. evaluate human and other resource needs of municipal services consistent with developing

sufficient service delivery, regulatory and training capacity to enable them to achieve UN and ILO goals for them, and

- d. coordinate policies and programmes for the development of municipal services in a manner which maximizes coherence between all levels of government and encourages better service provision and decent work.

NOTES

* These conclusions have not yet been examined by the Governing Body of the ILO in accordance with established procedures and therefore cannot be considered as definitive.

¹ Throughout this text when the term “workers’ representatives” is used, it refers to Article 3 of the Workers’ Representatives Convention, 1971 (No. 135), which reads as follows:

For the purpose of this Convention the term “workers’ representatives” means persons who are recognised as such under national law or practice, whether they are: (a) trade union representatives, namely, representatives designated or elected by trade unions or by the members of such unions; or (b) elected representatives, namely, representatives who are freely elected by the workers of the undertaking in accordance with provisions of national laws or regulations or of collective agreements and whose functions do not include activities which are recognised as the exclusive prerogative of trade unions in the country concerned.

²Labour Clauses (Public Contracts) Convention, 1949 (No. 94) and Recommendation (No. 84); Labour Relations (Public Service) Convention, 1978 (No. 151) and Recommendation (No. 159); and Collective Bargaining Convention, 1981 (No. 154) and Recommendation (No.163)



Public Services International

PSI is one of the oldest international trade union organisations in the world. It was founded in 1907 to develop bonds of solidarity between workers in public utilities in Europe, but over its history has expanded to cover almost all areas of public services throughout the world. PSI's membership currently stands at over 20 million.

PSI's aims however remain much the same:

- To promote co-operation amongst the affiliated organisations with the objective of coordinating their activities directed at establishing social justice, and to promote reciprocal assistance in the pursuit of their aims and objectives.
- To represent and defend the interests of employees in the public service before international authorities.
- To ensure the right of those employed in the public service to form and join professional or trade union organisations for the defence of their rights and interests.
- To uphold the right of organisations representing public employees to participate in the determination of conditions of employment by means of free negotiations.
- To campaign for the implementation of ILO Conventions, Recommendations and Resolutions which have a bearing on the well-being of public employees.

HOW DOES PSI WORK?

The highest authority is the Congress, which is composed of delegates from PSI's affiliated organisations and meets every five years. Between Congresses, PSI is governed by an Executive Board elected from PSI's 25 geographical constituencies. Congress also elects a President - who presides over Executive Board meetings - and a General Secretary - who is responsible for the management of PSI's day to day business.

Regional structures have been created to ensure that

the special needs and problems of particular areas are properly dealt with. Within each Congress period, a special Conference is held in each of PSI's four regions - Africa and Arab countries, Asia and the Pacific, Europe and the Interamericas - in which all affiliated organisations from the region are entitled to take part.

WHAT DOES PSI DO?

In carrying out the fundamental aims of the organisation, PSI organises an extensive programme of education and training for public service trade unionists at all levels. The objective is to help public service unions all over the world to develop into effective, independent organisations, so as to enable their members to play a full role in decisions that affect their work and life.

In addition to education, PSI engages itself in disseminating information on public service and trade union issues and organises a large number of meetings on vocational and technical subjects, including health and social services, workers in public administration, privatisation, trade union rights, globalisation, pensions, public utilities, multinational corporations, international financial and trading institutions, etc. Particular attention is given to women and young people in the public service.

Despite all the efforts of the free trade union movement over many years, there are still many countries where basic trade union rights and freedoms are not allowed or are being abused. PSI is consistently campaigning for the respect of human dignity, and the right to belong to a trade union.



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particular subject into their daily practice. Not surprisingly, there is no hard line to distinguish the content of these papers since they are all aimed one way or another at helping trade unions to strengthen their organisational and campaign work on the basis of democratically agreed principles which can be incorporated into a trade union's long term programme of work.

PSI welcomes any feedback on these papers and would be very grateful for any documents which readers care to send to PSI in the event that any revision of the material is undertaken.

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